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NO. 34941-II

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION TWO

STATE OF WASHINGTON

Respondent.

v.

ABDUL K. CALHOUN

Appellant.

FILED
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STATE OF WASHINGTON
BY [Signature] DEPUTY

ON APPEAL FROM THE SUPERIOR COURT OF THE
STATE OF WASHINGTON FOR PIERCE COUNTY

The Honorable Frank E. Cuthbertson, Judge

APPELLANT'S STATEMENT OF
ADDITIONAL GROUNDS FOR REVIEW

ABDUL K. CALHOUN
Appellant

WASHINGTON CORRECTIONAL CENTER
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A. ASSIGNMENTS OF ERROR

1. The trial court erred by vitiating and denying the Appellant his Sixth Amendment Speedy Trial Rights.

2. The trial court erred when it denied the Appellant a fair and impartial trial which is guaranteed by the Fifth Amendment and Fourteenth Amendment, as well as, the Sixth Amendment of the United States Constitution for America due primarily to the judicial bias and personal interest being exercised by the presiding Judge Cuthbertson.

3. The trial court erred when it did not mandate and require that the state produce actual unchanged physical evidence to be utilized in trial in contrast it allowed altered physical evidence to be admitted in lieu of a broken chain of evidence further abrogating the procedural due process rights of Mr. Calhoun pursuant to the Fifth Amendment and Fourteenth Amendment of the United States Constitution for America.

4. The trial court erred by vitiating and denying the Appellant's right to the Assistance of Counsel for his Defense as guaranteed by the Sixth

ASSIGNMENTS OF ERROR-Cont'd....

Amendment and applied to the states by way of the Fourteenth Amendment Due Process Clause of the United States Const. for America.

5. The trial court erred when it allowed the state Deputy Prosecutor, Mr. James S. Schacht to engage in direct abuse of process and prosecutorial misconduct substantially abrogating the appellant's Sixth Amendment, and Fourteenth Amendment United States Constitutional rights.

Issues Presented on Appeal

1. Whether the trial court vitiated and denied the appellant his Sixth Amendment speedy trial right guaranteed within the United States Constitution for America?

2. Whether the trial court Judge Cuthbertson abused his discretion and performed judicial bias, as well as, his own personal interest arbitrarily affecting the appellant's rights under the Fifth Amendment, Sixth Amendment, Seventh, Amendment, Eighth Amendment, Ninth Amendment, Tenth Amendment as well as, Article VI of the United States Constitution?

3. Whether the trial court erred by permitting the State Prosecutor, Mr. James S. Schacht to admit an extremely prejudicial booking photograph of the appellant during trial

and also not producing the actual inculpatory & exculpatory evidence in trial, violating the appellant's right's under the Fifth Amendment, Sixth Amendment & Fourteenth Amendment of the United States Constitution for America?

4. Whether the trial court erred by vitiating and rejecting the appellant's Sixth Amendment right to conflict free Assistance of Counsel under the Sixth Amendment of the United States Constitution due to a irreconcilable conflict between Mr. Calhoun and Mr. James A. Schoenberger?

5. Whether the trial court erred when it enabled the DPA, Mr. James S. Schacht while cloaked under the color of state law to exercise prosecutorial misconduct and abuse of process against Mr. Calhoun for exercising his rights to be afforded protection under the Constitution of the United States for America and its provisions under the Fifth, Sixth & Fourteenth Amendment?

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liberally Construed

HEREBY PLEASE TAKE NOTICE BY THESE PRESENTS, that Mr. ABDUL K. CALHOUN, hereby submits this "STATEMENT OF ADDITIONAL GROUNDS FOR REVIEW" under RAP Rule 10.10 and invokes RAP Rule 1.2 (a) and (c) for support whereas the subject-matter set forth within this document may in fact be liberally interpreted with the object to reveal and precipitate light upon this important matter now amidst this Honorable Appellate Court surely as necessity may indeed claim.

Introduction

Greetings! First and foremost my name is ABDUL K. CALHOUN, I am 29 years old, the highest grade I accomplished was the ninth (9) grade. I respectfully request that the Honorable Appellate Court grant the appellant the privilege to indeed be lesser stringent adherence to the procedure regarding drafting and composing this brief hereinafter referred to as, the Appellant's "STATEMENT OF ADDITIONAL GROUNDS FOR REVIEW" insofar as, the requisites of Mr. Calhoun demand in such an endeavor and undertaking. Truly, the appellant's earnest concern is that Mr. Calhoun may find, cultivate and develop a method which is succinct and easy to comprehend and understand so that, the Honorable Appellate Court may grant relief and apply the appropriate remedy in the action of this appeal.

Thus: Pro Se litigants pleading are to be construed liberally and held to less stringent standard than formal pleadings drafted by lawyers; if court can reasonably read pleadings to state a valid claim on which litigant could prevail, it should do so despite failure to cite proper legal authority, confusion of legal theories, poor syntax

and sentence construction, or litigant's unfamiliarity with pleading. Haines v. Kerner, 404 US 519, 30 LEd2d 652, 92 SCt 594 (1972)

"Courts will go to particular pains to protect pro se litigants against consequences of technical errors if injustice would otherwise result. US. V Sanchez, 88 F3d 1243 (D.C. Cir. 1996)

"Under plain error review, petitioner must show that; 1) error occurred; 2) error was clear or obvious; and 3) error affected petitioner's substantial rights. US V. MISHNER, 99 F3d 644 (5th Cir. 1996)

"Defendant's right to effective assistance of counsel applies not just at trial but also on direct appeal. Evitts v. Lucey, 469 US 387, 83 LEd2d 821, 105 SCt 830 (1985)

"Structural errors" call into question the very accuracy and reliability of the trial process and thus are not amenable to harmless error analysis, but require automatic reversal. McGurk v. Steinberg, 163 F3d 470 (8th Cir. 1998); US v. Mortimer, 161 F3d 240 (3rd Cir. 1998)

"Court of Appeal is obligated to correct plain error when error seriously affects fairness, integrity, public reputation of judicial proceedings." US v. Miner, 108 F3d 967 (8th Cir. 1997)

B. STATEMENT OF THE CASE

1. PROCEDURAL FACTS

On or about the 12th day of July, 2005, The Appellant

was charged with two(2) counts of robbery in the first degree contrary to RCW 9A.56.190 and 9A.56.200(i)(iii) one (1) count of robbery in the second degree contrary to RCW 9A.56.190 and 9A.56.210, and one(1) count of burglary in the first degree contrary to RCW 9A.56.020(1) (b) by information and a "Declaration for Determination of Probable Cause" upon presentment first executed by DPA Sorenson WSBA #16411 (see appendix #1 CP charging papers). Further, on the 25th day of October, 2005, Mr. Calhoun was charged with amended information by a supplement declaration for determination of probable cause presented by DPA Schacht WSBA # 17928, (see appendix #2 CP charging papers). Next, On the 22nd day of August, 2005, Mr. Calhoun asserted objections and didn't assent nor consent to the trial courts willful violation of the accused right to a speedy. (see appendix #3 Order Continuing trial). Then another objection was asserted against the trial court's granting of a continuance over the set trial date on 25th day of October, 2005, (see appendix #4 CP Order continuing trial). Again objection were asserted and endorsed "under duress and inducement" on the 14th day of December, 2005, (see appendix #5 CP Order Continuin trial). Further, another objection was asserted to the trial court allowing a continuance on 5th day of January, 2006, and on the 24th day of January, 2006, (see appendix #6, and #7 CP Order Continuing trial). Next, Mr. Calhoun again objected to another Order on March 6, 2006, granted by Judge Worswick

(see appendix #8 CP Order Continuing Trial) furthermore, on the 17th day of April, 2006, Mr. Calhoun asserted another objection to the court permitting a continuance over the set trial date. The continuance was again granted and indeed endorsed (NMC) "No Further Continuances" in court by Judge Lisa Worswick. Finally, on the 18th day of April, 2006, while during the outset of trial Judge Cuthbertson mentioned, "My colleague the criminal presiding Judge has written emphatically on this case, "No More Continuances" this case is 258 days old." RP 3 line 4-10. Mr. Calhoun attempted to inform the court before trial started that Mr. Schoenberger has had a deliberate indifference and does not agree with the method Mr. Calhoun has taken to exercise his rights by the filing of petitions to the government to acquire remedy and relief in this action. RP 26 line 11-16. Further on the 27th day of April, 2006, Judge Cuthbertson stated to Mr. Calhoun that, "The Constitution isn't stopping anywhere other than in this courtroom. RP line 15-16. Next on the 2nd day of May, 2006, Mr. Calhoun asserted to the court that the court appointed counsel was unequivocally terminated. RP 3 line 8-15. Peace Officer broke the chain of custody of the physical evidence. Mr. Calhoun assert and contends that he assumes the reason attorney Leslie Tolzin's statement was mentioned was because there was indeed a lack of physical evidence in respect to the Appellant's court proceedings. RP 21 line 9-16. Truly do to the fact that the peace officer's returned the (safe)

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physical evidence at the scene where the actual stop and arrest was made back to the State's witnesses. RP 156 During the trial a photograph labeled exhibit no.1 was admitted on the record into evidence over the objection of Mr. Schoenberger. RP 162 line 22-25. RP 163 line 1-8 Secondly exhibit no. 2 was also objected to an admitted over Mr. Schoenberger's assertion. RP 163 line 22-25. RP 164 line 1-2. Thirdly, again Mr. Schoenberger made the same objection to exhibit no.3 and it was admitted. RP 346 line 17-20. Next, Mr. Calhoun tried to present an affidavit of truth to the court in trial nevertheless, Judge Cuthbertson reiterated that, "they may deal with the matter after lunch." In which it did not occur or take place. RP 413 line 16-19. On the 11th day of May, 2006, Mr. Calhoun's endeavor to admit on the court record an affidavit of prejudice and an order of disqualification of Judge was first curtailed by Judge Cuthbertson. RP 425 line 10-15. The Appellant again asserted and reiterated to the court how there was a persistent ongoing conflict of interest and deliberate indifference between Mr. Calhoun and Mr. James A. Schoenberger denying the Appellant his right to the assistance of counsel under Argersinger v. Hamlin, 407 U.S. 25, 92 S.Ct(2006). The Appellant was silence by the court. RP 425 line 18-25. RP 426 line 1-12. Mr. Schoenberger objected to the court admitting exhibit no. 23. RP 435 RP436 line 21-25 RP 437 line 24-25. Subsequently, exhibit no. 23 was admitted for proof even though it was highly prejudicial

the court allowed it. RP 438 line 1-25. Exhibit no. 23 was admitted over objection. RP 439 line 1-9. Mr. Calhoun again then submitted an affidavit of prejudice on the record upon open court against Judge Frank E. Cuthbertson. RP 454 line 14-25. Furthermore, while in trial Mr. Calhoun attempted again to re-enter his petition for an order disqualifying Judge Cuthbertson which was accepted and dishonored. RP 455 line 1-16. Mr. Calhoun also requested to have the state's witnesses re-examined. The presiding Judge denied any all requests made by the Appellant. RP 456 line 12-14. Further, the Appellant contends that he did not believe that he should be compelled to swear to any oath in regard to this case while under examination in accord with the Washington State Constitution Article 1 Section 6 which provides the following as thus:

Art. 1, § 6 Oaths-Mode of Administering

The mode of administering an oath, or affirmation, shall be such as may be most consistent with and binding upon the conscience of the person to whom such oath, or affirmation, may be administered.

RP 459 line 1-25. Subsequently, Judge Cuthbertson said to the jury that, "Mr. Calhoun just said yes in response to his oath." RP 463 line 1-7. The Appellant suggests that he should not be induced to swear to anyone or anybody for for any reason whatsoever. Furthermore, Judge Cuthbertson

then decided to threaten the Appellant during the course of the proceedings by saying that he would have a stun belt applied to the body of Mr. Calhoun. RP 476

2. SUBSTANTIVE FACTS

The police report submitted by Officer E. Bell #LK137 noted that "none of the victims had any immediate visible injuries, and no one asked for medical aid." (see Officer's incident report). Mr. Kimbrough also stated that he didn't suffer any injuries or pain during trial. RP 143 line 16-23 Next Mr. Kimbrough reiterated and changed his statements claiming to be hurt after the Prosecutor Mr. James Schacht realized and discovered that Mr. Kimbrough did not testify to the offense of an actual assault in the second degree on the witness stand which was needed to fit the criteria of a robbery in the first degree, established by the element of inflicted bodily injury. Mr. Calhoun contends that this is the factor, catalyst and stimulus needed to compound the offense of robbery in the first degree which was reiterated a second time. RP 170 line 2-15. Further, questions asked and presented by Mr. James S. Schoenberger established that Mr. Kimbrough wasn't able to substantiate or exactly profess what he was struck by. RP172 line 1-14. In addition Mr. Kimbrough confirmed through his testimony that he never required any medical attention. RP 188 line 9-11. Truly the statements offered showed no injury, nor did the evidence.

Furthermore, the court mentioned that Mr. Kimbrough asserted that when he was struck it didn't hurt him bad. RP 464 line 17-19. Subsequently, Mr. Calhoun paraphrased and reiterated what Judge Cuthbertson stated to him outside the presence of the jury for the purpose of exposing the Judge Cuthbertson's defacto personification of impartiality and dignity. RP 499 line 22-25. Next Mr. Calhoun was dragged from the courtroom in front of the jury. RP 500 line 1-13. On the 12th day of May, 2006, the Appellant requested that the court provide a copy of the petition for interrogatory, and the petition for dismissal with prejudice for violation of the Appellant's Constitutional rights. RP 516 line 1-12. While Mr. Calhoun was upon the witness stand Prosecutor James Schacht decided to assert to the jury a comment attempting to discredit the veracity of Mr. Calhoun. RP 526

C. ARGUMENT

1. Whether the trial court vitiated and denied Mr. Calhoun's right to a speedy trial as promulgated and guaranteed within the Sixth Amendment of the United States Constitution for America?

AMENDMENT VI

In all criminal prosecution, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the

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nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his Defense.

Indeed, Mr. Calhoun contends that his fundamental right to a speedy trial as promulgated by the Sixth Amendment of the United States Constitution was denied by the Pierce County Superior Court. "Right to speedy trial is based upon Sixth Amendment to the United States Constitution and is binding on state prosecutions through the Fourteenth Amendment due process clause." State v. Stimson, 704 P.2d 1220, 41 Wash. App. 385. The trial court violated the appellant's right to substantive due process with the assistance of third party interference administered by the court appointed attorneys assigned to Mr. Calhoun's case. The appellant asserts that each and every court appointed attorney decided to overlook and impede Mr. Calhoun's efforts to demand and invoke his Constitutional right to a speedy trial. During the course of the preliminary trial court proceedings the appellant at every feasible opportunity asserted objections to the court allowing the arbitrarily granted orders continuing trial in the course of dealing before the set trial date was expired and the court always usurped its authority under the color of state law willfully. (see appendix #3;4;5;6;7;and8 order continuing trial). Furthermore, the appellant submitted and filed a petition for dismissal with prejudice for violation of Mr. Calhoun's right to a speedy trial.(Petition4/19/06).

Next. Mr. Calhoun contends that the trial court erred by arbitrarily violating 18 U.S.C.A. § 3161 et. seq., by not bring Mr. Calhoun to trial within the limits set within the code without any regard of its willful actions of neglect respecting its obligations and limitations. " The right to speedy trial is as fundamental as any rights secured by the Sixth Amendment." State v. Williams, 545 P.2d 572, 14 Wash. App. 803, affirmed 557 P.2d 1331, 87 Wash. 2d 916. (1976). The trial court delay was unreasonable and truly was not in any way justified in its actions of abolishing the speedy trial rights of Mr. Calhoun. The appellant asserts that the Pierce County Superior Court's actions in respect to this matter must be indeed scrutinized under Barker v. Wingo, 407 U.S. 514, 92 S.Ct 2182, 33 L.Ed.2d 101, which in fact must be applied to substantiate and confirm that the trial court did not enervate abolish and vitiate the substantial rights and substantive rights of Mr. Calhoun to be afforded a fair and impartial speedy trial. Furthermore, the length of time the appellant was detained under pretrial incarceration was for 258 days before he was brought to trial. RP 3 line 4-10 The pretrial delay was exceedingly unreasonable in fact due to the numerous opportunities the prosecutor had been given during the course of the proceeding to immediately commence the trial. Mr. Calhoun claims that the Pierce County trial Court and its Prosecutor's Office doesn't have a reasonable legitimate excuse for its deliberate contravention of the CrR 3.3 Time for Trial rule; regarding its actions for not

adhering to the duties, obligation and limits prescribed in the rule. Unequivocally, it is the trial courts obligation to stay within the purview of its own established set rule. Furthermore, the appellant declares that he developed and asserted a pattern of objections upon the face of the trial court record and it is prima facie evidence throughout the proceedings that there was never any assent or consent, nor was there ever a "meeting of the minds" by all the parties involved for the court to permit any order continuing trial yet, all orders were granted indeed Mr. Calhoun contends by a means of duress, inducement, fraud and bad faith. Truly, with that in mind the appellant assert and attest that he never attempted to delay the trial court proceedings. CP 1; 19;24;26;27;28;34;41;42. Further, Mr. Calhoun claims that the states pretrial incarceration was extremely malicious, arbitrary and oppressive. "unless the cause is shown by the record, the burden rest upon the state to show good cause for refusing to dismiss a prosecution for failure to bring accused, the appellant to trial within sixty days after information is filed." State v. lester,161 Wash. 227, 296 Pac 549 (1931). The trial courts actions was blatant uncontrolled tyranny. "Right to speedy trial is fundamental right." State v. Williams,557 P.2d1311,87 Wash.2d916(1976). The trial court and all the attorneys assigned to handle Mr. Calhoun's case displayed a penchant of antagonism and

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bias towards the appellant from the inception of the trial court proceedings for adamantly claiming that he had rights under the Washington State Constitution and United States Constitution which must be acknowledged by the trial court and afforded to Mr. Calhoun as protection as well as remedy for the trial courts vitiating of the appellant's rights. The Pierce County Superior Court's sentiment about its blatant violation of Mr. Calhoun's rights was apparent-just deal with it at the appellate court level, it is not really important at this time! Mr. Calhoun declares that this sort of court mismanagement is surely outrageous contravening of its duties when these types of structural errors are not addressed at the trial court level. Next Mr. Calhoun states that he believes that the trial court performed malfeasance and must be dealt with. Furthermore, the court appointed attorney assigned to the appellant's case acted within the course of his/her duties under bad faith, contravention and misrepresentation causing the effect of truly annihilating any potential of fairness or impartiality that may be given or afforded to Mr. Calhoun through his court proceedings if even any could have been slightly detected by the attorneys means of "third party interference" administered under acts of collusion. "Defendant need not show actual prejudice in order to prevail on constitution speedy trial claim; where first 3 Barker (407 514) factors all weigh heavily against

government. Dogget v. US, 505 647, 120 LEd 2d 550 112 Sct 2686 (1992) US v. Doggett, 906 F2d 573 (11th cir1990). It's unequivocal that the pretrial delay caused by Pierce County materially affected and prejudiced Mr. Calhoun's right to a speedy trial under the Sixth Amendment of the United States Constitution for America. The trial court also violated the Speedy Trial Act. "Speedy trial act requires that trial of criminal defendant commence within 70 days from the date of arrest, filing of indictment or information, or first appearance before court whichever date last occurs; if government fails to bring defendant to trial within 70 day period, government must dismiss indictment or on motion of defendant." US v. Crawford, 982F2d199(6th1993). Mr. Calhoun was not afforded a speedy trial as promulgated by the Sixth Amendment. Nevertheless, the evidence is truly replete throughout the trial court record of this breach by the Pierce County Superior Court. If delay before, trial has been arbitrary, oppressive, vexations or prejudicial to defendant's case and violates high standards for administration of criminal justice or would otherwise in all ramifications amount to such a delay an unfair trial or in interest of fundamental fairness warrant a vacation of conviction, it abridges Constitutional right to a speedy trial. State v. Jestes, 448 P.2d 917, 75 Wash.2d 47. "It is the responsibility of the court to ensure a trial in accordance with CrR 3.3 CrR 3.3(a); State v. Jones, 49 Wash.App398

402, 743 P.2d 276 (1987) aff'd, 111 Wash. 2d 239 759 P.2d 1183(1998). In conclusion, Mr. Calhoun respectfully request that the proper remedy be applied in this case which is a order from the Appellate Court to reverse and vacate the conviction of the Appellant with Prejudice accordingly.

2. Whether the trial court erred when it displayed performed and administered direct antagonistic Judicial Misconduct, Bias and personal interest arbitrarily affecting its Oath neglecting Article VI of the United States Constitution for America. Furthermore maliciously proscribing Mr. Calhoun's Fifth Amendment Sixth Amendment Seventh Amendment Eighth Amendment Ninth Amendment Tenth Amendment and Fourteenth Amendment United States Constitutional right's?

Mr. Calhoun contends that he did not receive a fair trial. Judge Frank E. Cuthbertson stated that, " The Constitution stops in his(Judge Cuthbertson's) courtroom."RP 49 line 15-16. Next the presiding Judge stated that he would attach an electric stun belt to the appellant's body-just for merely speaking within the courtroom on the record attempting to invoke and stand upon the United States Constitution for its full protection of Mr. Calhoun a Sentient Being of the Republic. RP 476 Thus: "It is unconstitutional deprivation of due process for government to penalize a person merely because he has exercised protected statutory or constitu-

nal right"Blackledge v. Perry, 417 US 21, 40 LEd 2d 628, 94 Sct 2098 (1974). Subsequently, the appellant's Co-defendant Verndeleao Joy Banks accepted a plea agreement and at that moment the assigned counsel of record requested that the trial court, Judge Frank E. Cuthbertson, recuse himself and abdicate his authority due to his inclined proclivity and sentiment of subtle antipathy and prejudice directed toward Mr. Calhoun. RP 82 line 9-12. "Under due process standards , the appearance of fairness doctrine and Canon 3 (D)(1) of the Code of Judicial Conduct, a court should disqualify itself if it has bias against a party or if its impartiality may reasonably be questioned. In re Murchison, 349 U.S. 133 136, 75 S. Ct. 623, 99 L.Ed.942 (1955); State v. Madry, 8Wn. App. 61, 68-70, 504 P.2d 1156 (1972)." State v. Dominguez, 81 Wn. App 325, 914 P.2d 141 (1996). Indeed, Mr. Calhoun, claims that Judge Cuthbertson exercised and engaged within the scope barratry and collusion during the course of the appellant's proceedings. Further, Mr. Calhoun contends that Judge Cuthbertson's perfidiousness and willfull ineffable seditious conspiracy executed under the color of state law against Mr. Calhoun was crystal clear during the proceeding that Judge Cuthbertson's purpose was not at all to support the "Rights of the Accused, The United States Constitution , or The Washington State Constitution." The end result is that Judge Frank E. Cuthbertson, was able to successfully accomplish the act of abolishing and depriving Mr. Calhoun

of his "Substantive Rights and Substantial Rights," totally eradicating any innuendo of his court maintaining any honor and status of emulating a Constitutional court. Mr. Calhoun encountered belligerent ridicule and grave prejudice as a layman during the course of dealing within the grip of the presiding Judges tribunal. Futhermore, Mr. Calhoun declares that Judge Cuthbertson's sentiment and demeanor was not at all truly indifferent during the trial court proceedings. Therefor Judge Cuthbertson sustained and performed an abuse of discretion repeatedly throughout the entire court ordeal surely in violation of the Judges decorum, obligations, as well as, limits in accordance with the CJC Canon 3 (A) (5), and (D) (1) whereas, it was incumbent upon the trial court Judge Frank E. Cuthbertson to duly recuse and unequivocally disqualify himself as aforesaid Judge from presiding over the appellant's court business. "The law goes farther than requiring an impartial Judge it also requires that the Judge appear to be Impartial." State v. Post, 118 wn 2d 596 , 618 826 P.2d 172, 837 P.2d 599 (1992) (quoting State v. Madry, 8 wn App. 61, 70 504 P.2d 1156(1972)). Mr. Calhoun contends that Judge Cuthbertson's antagonistic comments directed towards the appellant during trial were extremely obvious, Judge Cuthbertson's "Title of Nobility" granted him the charter of "Unchecked Judicial Authority," in which Mr. Calhoun adamantly contends that Judge Cuthbertson truly exploited and breach Article VI § 2 of The United States

6

Constitution for America as well as, Article 4 § 28 Oath of Judges of the Washington State Constitution. Surely if that wasn't the case in chief. Why else would the Judge say that the Constitution stops in his courtroom?(sic). Because, it truly did! "Impartial means the absence of bias, either actual or apparent." State v. Moreno, 147 Wn. 2d 500, 507 58 P3d 265 (2002). During trial Mr. Calhoun presented also an affidavit of Prejudice and an order for disqualification of against Judge Frank E. Cuthbertson. RP 425 line 10-25. Next During trial the appellant requested to obtain an authentic copy of the filed and stamped petition for interrogatories in which Judge Cuthbertson pretended to have not reviewed the drafts presented by the appellant due to their material relevance of substantiating the (arcane) postulated form of action. RP 10 line 1-25. Mr. Calhoun claims adamantly that the trial court willfully violated the Sixth Amendment of the United States Constitution denying the him the right to a fair trial, to the assistance of counsel for his defense and unequivocally to scrutinize and verify the crux or gist of the true nature and cause of the accusation against the Appellant, Mr. Calhoun, by compelling the prosecutor indeed substantiate the gist of the form of the action and ground of action. Further, Judge Cuthbertson denied Mr. Calhoun's petition for dismissal with prejudice. RP 11 line 1-25. Next the appellant asked to be rendered authentic filed copies of the petitions presented to the court. The trial court

denied Mr. Calhoun's request. RP 515 line 24-25, RP 516 line 1-14. Moreover, Judge Cuthbertson rejected the appellant's petition for an order of disqualification of Judge as well as, an affidavit of prejudice RP 455 line 1-16. Furthermore, Mr. Calhoun asserts an affirmative claim that the trial court violated also his Seventh Amendment Constitutional right to a trial by jury under the rules of common law."The common law is all the statutory and case law back ground of England and the American colonies before the American revolution People v. Rehman, 253 C.A. 2d 119, 61 Cal Rptr. 65 85. Mr. Calhoun's right to have the ground of action and /or form of action presented within a common law courtroom insofar as to verify the claim of the real parties of the action and of the real parties in the action. Further, the appellant asserts that the trial court vitiated the Eighth Amendment also under the United States Constitution whereas Mr. Calhoun should have been afforded and rendered complete protection from the Pierce County Superior Court's exercise of cruel and unusual punishment executed against Mr. Calhoun for having the fortitude to stand up and Claim the United States Constitution and Washington State Constitution truly for its protection. Indeed the appellant contends that he was treated belligerently with antipathy cruelly by the the trial court particularly during sentencing. Mr. Calhoun originally had three (3) priors before becoming entangled within the grip of the sham of the Pierce County Judicial system. By the end of the court proceeding Mr. Calhoun was

willfully sentenced under the highest offender score that that could have been attained maliciously which was a score of nine (9) points with a sentence range of 129-171, months in which the court swiftly laid down the most egregious and harsh sentence possible without any evidence of there being any aggravating factors to sustain such a cruel sentence. Moreover, Mr. Calhoun believes that the trial court Judge Cuthbertson's notion, sentiment, and predilection towards Mr. Calhoun can be depicted as an effigy due to the Judge's partiality which was indeed evident. Further, Mr. Calhoun contends the reason the trial court Judge had a penchant of bias and discrimination against the appellant is surely due to the fact that Mr. Calhoun accused Judge Cuthbertson upon open court of Sedition and of Judicial Misconduct and truly for that reason alone Mr. Calhoun contend that the trial court Judge Frank E. Cuthbertson's impartiality was indeed reasonably compromised. RP 425 line 1-25. Truly, the trial court Judge was bias against the appellant. " A breach of allegiance to one's government, usually committed through levying war against such government or by giving aid or comfort to the enemy. The offense of attempting by overt acts to overthrow the government of the state to which the offender owes allegiance; or of betraying the state into the hands of a foreign power. Treason consists of two elements: adhering to the enemy, and rendering him aid and comfort. Cramer v. U.S., U.S.N.Y., 325 U.S.1, 65 S.Ct. 918

932, 89 L.Ed.1441 a person can be convicted of treason only on the testimony of two witnesses, or confession in open court Article III, § 3 of The United States Constitution. Whereas, Mr. Calhoun assert and attest that the trial court Judge Frank K. Cuthbertson in fact stated that, "the United States Constitution wasn't stopping anywhere other than his courtroom." RP 49 line 15-16. Mr. Calhoun contends this is unequivocally an act of seditious treasonous subtle averred acknowledgement in open court by the presiding trial court Judge Frank E. Cuthbertson. Next Judge Cuthbertson, denied Mr. Calhoun's Ninth Amendment United States Constitutional right and substantive rights by his administration and acts of collusion. " An agreement between two or more persons to defraud a person of his rights by the forms of law, or to obtain an object forbidden by law. It implies the existence of fraud of some kind, the employment of fraudulent means, or of lawful means for the accomplishment of an unlawful purpose. " Tomiyosu v. Golden, 81 NEV. 140, 400 P.2d 415. Next Mr. Calhoun contends that the trial court violated the Tenth Amendment of the United States Constitution by surely abrogating the appellant's inalienable rights and/or those substantial and substantive rights that are reserved by the people respectively as promulgated. Finally, the Appellant, Mr. Calhoun claims that the Pierce county trial court also vitiated and/or abolished the Fourteenth Amendment of the United States Constitution for America. " Where rights secured by the federal constitution are involved, there can

be no rule making or legislation which would abrogate them. Miranda v. Arizona, 384 U.S. 436; 865 S.Ct 1602; 16 L.Ed2d (1966). Furthermore, it was established upon the record of the proceeding as well as, by the actions of everyone that was involved indirectly and directly with Mr. Calhoun's suit that Judge Frank E. Cuthbertson did exercise and administer his own capricious unchecked despotic Judicial decisions in the appellant's case under the color of state law primarily due to the Judges partisan attitude of fascism which indeed was ostentatiously displayed by Judge Cuthbertson while he presided over this matter willfully abusing his discretion through the Judge's prescribed "Title of Nobility and Honor" granted under the color of law.

3. Did the trial court err when it did not mandate and require that the state produce the actual physical evidence to be utilized in trial in contrast it allowed altered physical evidence to be admitted in lieu of a broken chain of evidence by abrogating the procedural due process rights and equal protection rights of Mr. Calhoun pursuant to the Fifth Amendment and Fourteenth Amendment of the United States Constitution for America?

Mr. Calhoun contends affirmatively, that he did not receive a fair trial under the due process clause and/or receive equal protection of the law. The appellant claims that due

primarily to the actions of the Lakewood Police Department and the Deputy Prosecutor, Mr. James S. Schacht wilfully to disregard the investigative agencies practical formalities in respect to the stringent procedural requirements of the collection of substantial evidence during the initial steps of the investigation by the officers involved in the matter under scrutiny which should have been to preserve all items collected. The chain of evidence was allowed to be breached by the Lakewood Police Department and its primary officer who composed the initial report of the incident and collected the evidence, Officer Eric Bell, LK # 137., within his duty of actually collecting the material evidence during the investigation officer E. Bell did not retain, secure and/or preserve all the substantial relevant evidence by taking all evidence that indeed were the fruits of the offense and incident immediately enter and book all articles collected as evidence into the property room at the Lakewood Police as required instead Officer E. Bell released the evidence (i.e. safe) at the scene where the stop and arrest of the appellant was carried out. Officer E. Bell averred, "I took digital photographs of the truck, the bandanas, the safe before moving the items. I then collected the bandanas in an evidence bag. I took the safe back to my car and asked Isha to identify the safe. Isha quickly identified the safe as hers. Before giving Isha her safe back she opened the

safe with her key so we could see what was inside. The safe contained approximately four hundred dollars in cash and several paper documents that belonged to her and her family .I then released the safe to her. The safe was photographed before returning to Isha. All other evidence in this case was booked into a secure evidence locker at the Lakewood Police Department."Mr. Calhoun contends that the Lakewood Police Department indeed had a duty to preserve all the substantial evidence so that it could have been presented by either party at trial, not just some evidence that it so determined was more important than the other. It is prima facie evidence that the chain of custody was broken and/or breached by the investigative officer's. The Lakewood Peace Officers presented photographs of the exterior of the safe but not photographs of the inside or its contents which was therein to have been approximately Four Hundred (\$400.00) United States Dollars Currency of the Federal Reserve that was presumed to have been taken by Mr. Calhoun which is an erroneous conjecture. (see Officer Eric Bell's arrest and incident report incident no. 051920143.1). Next"Fundamental fairness" requirement of due process, as imposing on police an undifferentiated and absolute duty to retain and preserve all material that might be of conceivable evidentiary significance in a particular prosecution . Arizona v. Youngblood, 488 U.S. 51 109 S.Ct 333, 102,L.Ed 281, 57 S.Ct(1988). During trial the testimony of the that, "The police put the spotlight on them and we made our

identifications. He brought back the safe and left." RP 156 line 17-18. "The duties of preservation and disclosure apply equally to the prosecution police, other investigatory agencies, and persons handle of evidence with the consent of such official." United States v. Bryant, 439 F.2d 642 650 (D.C. Cir 1971); Barbee v. Warden, 331 F.2d 842, 846 (4th Cir 1964); Imbler v. Craven, 298 F Supp 795 806-807 (CD. Cal 1969) Cert. Denied, 400 U.S. 865 (1970). Mr. Calhoun contends the Lakewood Police Department assisted the deputy prosecuting attorney with violating the appellant's right rendered as promulgated under the equal protection and due process of law clause found within the United States Constitution for America. In that the Lakewood Police Department abused its discretion and procedure by not gathering and admitting all material pieces of physical evidence that was claim to be fruits of the offense and crux of the action. The appellant declares that his Fifth Amendment Constitutional right was vitiated as well as, Mr. Calhoun's Fourteenth Amendment United States Constitutional right by the Lakewood Police Department and the Pierce County Prosecutor's Office by its authorized representative; Mr. James S. Schacht, in which he chose to vindictively by a means of malice pursue a conviction of robbery in the first degree knowingly without the actual physical evidence transmuting Mr. Calhoun's case to an unfair adversarial game and miscarriage of justice. The state prosecutor should have unequivocally demanded for all the evidence to be preserved and not discarded but that

was not the case. Truly, all evidence whether it was indeed inculpatory or either exculpatory, shouldn't have been left at the scene but instead secured and taken to the Lakewood Police Department and placed inside of the evidence room to be stored until time for trial. "The due process clause of the Fourteenth Amendment requires the state to disclose to criminal defendants favorable evidence that is material either to guilt or to punishment. United States v. Augurs, 427 U.S. 97 (1976); Brady v. Maryland, 373 U.S. 83 (1963). In conclusion, Mr. Calhoun respectfully requests that this case be remand with an accompanying order for new trial.

4. Whether the trial court erred by vitiating and rejecting the appellant's right to the assistance of counsel for his defense under the United States Constitution for America, due to a persistent irreconcilable conflict and absolute break down of communication that destroyed the attorney-client relationship?

Unequivocally, Mr. Calhoun contends that he did not receive effective assistance of counsel during the course of (1) the preliminary states of the appellant's court action, due to the fact that the court appointed attorney, Mr. James A. Schoenberger was extremely overburdened with really an excessive amount of Pierce County Trial Court caseload that severely impeded Mr. Calhoun's right to be rendered

a conflict free attorney-client relationship that certainly developed and lead to an absolute irreconcilable conflict and total breakdown of communication as well as, trust that in effect caused an irreparable attorney-client connection leaving Mr. Calhoun in an awful state of dismay giving the appellant no other option at all but, to attempt to express his matters to the court but, the Appellant, Mr. Calhoun, was soon thereafter clearly able to understand that indeed water had extended to land and that Mr. Calhoun had no real ground to stand on within Judge Cuthbertson's courtroom. Do to the demise of the United States Constitution in which the presiding Judge overtly declared its non existence. (2) During the threshold stages and inception of Mr. Calhoun's trial court action the appellant informed the court that the trial court assigned Attorney, Mr. Schoenberger stated to Mr. Calhoun at during an attorney-client encounter that, "The State of Washington was going to burn the appellant at the stake, and it was going to use The United States Constitution to ignite the fire at his feet." During a vist conducted at the Pierce County Correctional Facility. RP 49 Next, Mr. Calhoun informed the trial court presiding Judge Cuthbertson, which proved to be of no help in which no help or remedy was granted. (3) Furthermore, on the 2nd day of June, 2006, during the judgement and sentencing juncture of the trial court action Attorney Schoenberger again provied that he held a deliberate indifference and would not assist Mr. Calhoun with ascertaining and substantiating a true and

correct valid offender score which should have reflected a offender score of three (3) points at the most and not nine (9) which was presented erroneously to inflict cruel and malicious acts of punishment just because the presiding trial court Judge had the color of authority to prescribe such a harsh sentence. Mr. Schoenberger didn't dilligently endeavor to solicit any legal grounds to predicate any fact that could be utilized to mitigate the sentence. There was no (PSI) Presentence investigation report conducted, nor was Attorney Schoenberger ready to give an independent account or calculation of the offender score once the sentencing proceeding commenced. RP 4 line 5-8. Instead Mr. Schoenberg intentionally allowed the Pierce County Prosecutor Mr. James S. Schacht to erroneously deceive the presiding Judge with an improper offender score of nine (9) points so, that, the trial court would prescribe a Judicial determination of 171 months of punitive incarceration at sentencing. Further, Mr. Calhoun objected to the miscalculated offender score and violation of his Fifth Amendment, Sixth Amendment, and Fourteenth Amendment United States Constitutional right. RP RP 8,9. Due primarily to the persistent irreconcilable conflict and breakdown of communication between Mr. Schoenberg and the appellant. Mr. Calhoun contends that it caused also a total denial of counsel and miscarriage of justice. Truly, Mr. Calhoun believes the trial court erred when it allowed Attorney James A. Schoenberger to engage in "Third Party Interference," and "Conflict of Interest" which had become

irreparable developing into a complete depravation of the appellant's rights proving to be misrepresentation, acts of subterfuge, bad faith and collusion being duly accomplished through the performance of Attorney Schoenberger. On the 19th day of April, 2006, Mr. Calhoun informed the court of the deliberate indifference and conflict of interest which was irreparable denying Mr. Calhoun of a fair trial. RP 26 line 9-19. On the 2nd day of May, 2006, Mr. Calhoun fired and/or attempted to discharge Mr. Schoenberger, as well as, all the other failed attempts prior to commencing trial RP3 line 4-5. "No special formality is required to discharge an attorney an any act of client indicating an unmistakable purpose to sever relations is sufficient." Barr v. Day, 124 Wash. 2d 318 879 P.2d 912 (wa.08/11/1994). "Unlike general contract law under a contract between an attorney and a client, a client may discharge the attorney at any time with or without cause." Kimball v. PUD 1, 64 Wash. 2d 252, 257, 391 P.2d 205 (1964). Further provided, On or about the 3rd day of May, 2006, Mr. Calhoun again asserted in open court that Mr. Schoenberger was not his attorney, he didn't have the assent nor consent required by Mr. Calhoun to be the appellant's authorized representative. RP 3 line 8-15. Unfortunately, the trial court disregarded all matters that the appellant attempted to express on the record. "Right to conflict free representation derives from Sixth Amendment as applied to states by due process clause of the Fourteenth Amendment." Garcia v. Bunnell, 33 F3d 1193 (9th

Cir 1994). On or about the 27th day of April, 2006, During Mr. Calhoun's preliminary trial court hearing the appellant informed the court that Attorney Schoenberger had stated to the appellant during a brief encounter at the Pierce County Correctional Facility that, "The Constitution stops at the Washington-Idaho Border." RP 48 line 20-25. Furthermore, he also declared, "The State of Washington was intending to burn Mr. Calhoun at the stake and use The United States Constitution as the object to ignite the flame at the appellant's feet." RP 49 line 4-25. Indeed it is surely substantiated by the record that Judge Cuthbertson offered aid and support to Mr. Schoenberger's assertions. Further, Mr. Calhoun contends that good cause was presented to the court before trial commenced in which the trial court could and certainly should have permitted Attorney Schoenberger to withdraw due to the substantial prejudice affecting the appellant's attorney-client relationship. The trial court erroneously neglected to appropriately resolve the matter. "Reversal is mandated if prejudice is proven on attorney-client relationship." US v. Morrison, 449 US 361, 66 LEd 2d 564, 101 Sct 665 (1981). Further, on the 19th day of April, 2006, Attorney, James A. Schoenberger stated in open court "There are serious issues affecting my ability to communicate with this man about his defense." RP 36 line 15-16. Attorney Schoenberger acknowledged that a conflict also existed between himself and the appellant but, the trial

court refused to ascertain the actual degree of contention. "The breakdown of a relationship between attorney and defendant from irreconcilable differences effectively results in the complete denial of counsel. Therefor, unlike a claim of ineffective assistance of counsel, there is no requirement to show prejudice. In re Personal Restraint of Stenson, 142 Wn. 2d 710, 722, 16 P.3d 1 (2001) (Stenson2) (citing United States v. Moore, 159 F.3d 1154, 1158 (9th Cir 1998)). Mr. Calhoun contends that there was evidence entered upon the court file; a petition of ineffective assistance counsel and an affidavit of termination of ineffective assistance of counsel by the appellant before the inception of trial to reveal the irreparable conflict. (Petition3-27-06). Next, due to the complete breakdown of communication between Attorney Schoenberger and Mr. Calhoun, the Appellant contends that Attorney Schoenberger exercised bad faith and moral turpitude against Mr. Calhoun while Mr. James A. Schoenberger was assigned to Mr. Calhoun's court case. He continuously attempted to attain relief and a remedy from the trial court but, was ultimately shunned because, of the appellant's unorthodox method of exercising his claim upon the record in the action. "A defendant dissatisfied with appointed counsel must show good cause to warrant substitution of counsel. Such as a conflict of interest, an irreconcilable conflict, or a complete breakdown in communication." State v. Stenson, 132 Wn.2d 688, 734 940

P.2d 1239 (1997). "Sixth Amendment to Federal Constitution, guaranteeing accused in criminal prosecution" assistance of counsel for his defense means effective assistance, as distinguish from bad faith, sham, mere pretense or want of opportunity for conferences. Fed. R. Crim. P. 44; 18 U.S.C.A § 3006 A; Gideon v. Wainwright, 372 U.S. 335, 83 S.Ct. 792, 9 L.Ed.2d 799; Gedars V. U.S., 425 U.S. 80, 96 S.Ct. 1330, 47 L.Ed 2d 592. In conclusion, Mr. Calhoun declares that good cause was clearly shown for Attorney Schoenberger to be disqualified but, the trial court willfully neglected to grant a reasonable remedy causing an absolute depravation of Mr. Calhoun's Fifth Amendment, Sixth Amendment Amendment and Fourteenth Amendment United States Constitutional rights. Indeed, Mr. Calhoun respectfully request that the Appellate Court reverse and remand with accompanying orders for the trial court to commence a new trial for violating Mr. Calhoun's substantive due process rights.

5. Did the trial court err when it enabled the State's Prosecutor, Mr. James S. Schacht to act and perform prosecutorial misconduct as well as vindictiveness as an adversary against the Appellant, Mr. Calhoun, abrogating his right to be protected under the Fifth Amendment, Sixth Amendment and Fourteenth Amendment in Pursuance of the United States Constitution for America?

Mr. Calhoun contends that Deputy Prosecution Attorney; James S. Schacht utilized his position to divest and vitiate the appellant's Fifth Amendment, Sixth Amendment and Fourteenth Amendment United States Constitutional rights when the DPA, James S. Schacht decided to induce the jury during trial by asserting that Mr. Calhoun's account of the circumstances regarding the event and subject-matter under scrutiny were ludicrous and unbelievable. "So lets look at a couple of aspects of Mr. Calhoun's testimony." RP 544 line 24-25. "Is there any crediblity in that account, that Mr. Calhoun takes the stand, takes the oath and said yeah, this is exactly the truth of what happened. Is there any credibility in that ? No." RP 526. "As ludicrous as that sounds, that's what Mr. Calhoun is telling you is the truth." RP 545 line 12-13. "A statement by counsel clearly expressing his own personal opinion as to the credibility of a witness of the guilt of the defendant is misconduct." State v. Papadopoulos, 34 Wash App. 397, 400 662 P.2d 59 (1983) It is clear that DPA James Schacht voiced his own personal belief of the appellant's testimony for the purpose of influencing the jury to his own end prejudicially affecting the jury by a means of embracery and other tactical methods in which DPA Schacht is so well versed. "A defendant establishes prejudicial error when it is clear and unmistakable that the prosecutor expressed a personal opinion." State v. Sargent, 40 App. 340, 344 698 P.2d 598 (1985). In conclusion, truly

Mr. Calhoun request that the honorable appellate court will indeed reverse and remand for new trial due to the fact that DPA Mr. Schacht violated Mr. Calhoun's Fifth Amendment Sixth Amendment and Fourteenth Amendment United States Constitutional rights to substantive due process protecting Mr. Calhoun's substantial rights and substantive rights.

D. Conclusion

Mr. Calhoun respectfully requests that the Honorable Appellate Court (1) reverse and remand for new trial (2) and reverse and discharge the appellant's charges with prejudice for violating the appellant's Fifth Amendment, Sixth Amendment Seventh Amendment, Eighth Amendment, Ninth Amendment, Tenth Amendment and Fourteenth Amendment United States Constitutional rights.

DATED this 23rd day of February, 2007.

Respectfully Submitted by,


Mr. ABDULKHALIF CALHOUN
Appellant/Accused

I, Abdulkhalif Calhoun, a person over the age of 18 years of age served the Pierce County Prosecutor's office 930 Tacoma Ave. S. Rm 109, Tacoma, 98402 a true copy of the document to which this certificate is affixed, on February 23, 2007. Service was made by depositing in the mail of the United States of America, properly stamped and addressed.

Appendix

E. Appendix

1. Information (Charging Papers) Appendix #1
2. Declaration for Determination of Probable Cause (Charging Papers)
Appendix #1
3. Amended Information (Charging Papers) Appendix #2
4. Supplemental Declaration for Determination of Probable Cause (Charging
Papers) Appendix #2
5. Order Continuing Trial Appendix #3
6. Order Continuing Trial Appendix #4
7. Order Continuing Trial Appendix #5
8. Order Continuing Trial Appendix #6
9. Order Continuing Trial Appendix #7
10. Order Continuing Trial Appendix #8
11. Order Continuing Trial Appendix #9
12. Order Continuing Trial Appendix #10
13. Order Continuing Trial Appendix #11
14. Lakewood Police Report incident No. 051920143.1
Appendix #12

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7 SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

8 STATE OF WASHINGTON,

9 Plaintiff,

CAUSE NO. 05-1-03396-9

10 vs.

11 ABDUL K CALHOUN,

INFORMATION

12 Defendant.

13 DOB: 3/13/1977
14 PCN#: 538479764

SEX : MALE
SID#: 15652497

RACE: BLACK
DOL#: OR CALH0AK234DL

15 CO-DEF: VERNDELEAO JOY BANKS 05-1-03394-2
16 CO-DEF: ZACHARY LYNN FRAZIER 05-1-03395-1

17 COUNT I

18 I, GERALD A. HORNE, Prosecuting Attorney for Pierce County, in the name and by the
19 authority of the State of Washington, do accuse ABDUL K CALHOUN of the crime of ROBBERY IN
20 THE FIRST DEGREE, committed as follows:

21 That ABDUL K CALHOUN, acting as an accomplice, in the State of Washington, on or about
22 the 11th day of July, 2005, did unlawfully and feloniously take personal property belonging to another
23 with intent to steal from the person or in the presence of r.Kimbrough, the owner thereof or a person
24 having dominion and control over said property, against such person's will by use or threatened use of
immediate force, violence, or fear of injury to R.Kimbrough, said force or fear being used to obtain or
retain possession of the property or to overcome resistance to the taking, and in the commission thereof,
or in immediate flight therefrom the defendant or an accomplice inflicted bodily injury upon
R.Kimbrough, contrary to RCW 9A.56.190 and 9A.56.200(I)(iii), and against the peace and dignity of the
State of Washington.

COUNT II

And I, GERALD A. HORNE, Prosecuting Attorney for Pierce County, in the name and by the
authority of the State of Washington, do accuse ABDUL K CALHOUN of the crime of ROBBERY IN
INFORMATION- 1

Appendix #1 Charging Papers

Office of the Prosecuting Attorney
930 Tacoma Avenue South, Room 946
Tacoma, WA 98402-2171
Main Office (253) 798-7100

1 THE FIRST DEGREE, a crime of the same or similar character, and/or a crime based on the same
 2 conduct or on a series of acts connected together or constituting parts of a single scheme or plan, and/or
 3 so closely connected in respect to time, place and occasion that it would be difficult to separate proof of
 one charge from proof of the others, committed as follows:

4 That ABDUL K CALHOUN, acting as an accomplice, in the State of Washington, on or about
 5 the 11th day of July, 2005, did unlawfully and feloniously take personal property belonging to another
 6 with intent to steal from the person or in the presence of C.Isaac, the owner thereof or a person having
 7 dominion and control over said property, against such person's will by use or threatened use of immediate
 8 force, violence, or fear of injury to C.Isaac, said force or fear being used to obtain or retain possession of
 the property or to overcome resistance to the taking, and in the commission thereof, or in immediate flight
 9 therefrom the defendant or an accomplice inflicted bodily injury upon C.Isaac, contrary to RCW
9A.56.190 and 9A.56.200(1)(iii), and against the peace and dignity of the State of Washington.

COUNT III

10 And I, GERALD A. HORNE, Prosecuting Attorney for Pierce County, in the name and by the
 11 authority of the State of Washington, do accuse ABDUL K CALHOUN of the crime of ROBBERY IN
 12 THE SECOND DEGREE, a crime of the same or similar character, and/or a crime based on the same
 13 conduct or on a series of acts connected together or constituting parts of a single scheme or plan, and/or
 so closely connected in respect to time, place and occasion that it would be difficult to separate proof of
 one charge from proof of the others, committed as follows:

14 That ABDUL K CALHOUN, acting as an accomplice, in the State of Washington, on or about
 15 the 11th day of July, 2005, did unlawfully and feloniously take personal property belonging to another
 16 with intent to steal from the person or in the presence of I.Isaac, the owner thereof or a person having
 17 dominion and control over said property, against such person's will by use or threatened use of immediate
 18 force, violence, or fear of injury to I.Isaac, said force or fear being used to obtain or retain possession of
 the property or to overcome resistance to the taking, contrary to RCW 9A.56.190 and 9A.56.210, and
 against the peace and dignity of the State of Washington.

COUNT IV

19 And I, GERALD A. HORNE, Prosecuting Attorney for Pierce County, in the name and by the
 20 authority of the State of Washington, do accuse ABDUL K CALHOUN of the crime of BURGLARY IN
 21 THE FIRST DEGREE, a crime of the same or similar character, and/or a crime based on the same
 22 conduct or on a series of acts connected together or constituting parts of a single scheme or plan, and/or
 23 so closely connected in respect to time, place and occasion that it would be difficult to separate proof of
 one charge from proof of the others, committed as follows:

24 That ABDUL K CALHOUN, acting as an accomplice, in the State of Washington, on or about
 the 11th day of July, 2005, did unlawfully and feloniously, with intent to commit a crime against a person

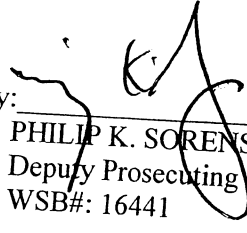
1 or property therein, enter or remain unlawfully in a building, located in Pierce County, and in entering or
2 while in such building or in immediate flight therefrom, the defendant or another participant in the crime
3 did intentionally assault a person therein, contrary to RCW 9A.52.020(1)(b), and against the peace and
4 dignity of the State of Washington.

5 DATED this 12th day of July, 2005.

6 LAKEWOOD POLICE DEPARTMENT
WA02723

GERALD A. HORNE
Pierce County Prosecuting Attorney

7 Pks

8 By: 
9 PHILIP K. SORENSEN
Deputy Prosecuting Attorney
WSB#: 16441

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INFORMATION-3

Appendix #1 Charging Papers

Office of the Prosecuting Attorney
930 Tacoma Avenue South, Room 946
Tacoma, WA 98402-2171
Main Office (253) 709-7100

NO. 05-1-03396-9
DECLARATION FOR DETERMINATION OF PROBABLE CAUSE

PHILIP K. SORENSEN, declares under penalty of perjury:

That I am a deputy prosecuting attorney for Pierce County and I am familiar with the police report and/or investigation conducted by the LAKEWOOD POLICE DEPARTMENT, incident number 051920143;

That the police report and/or investigation provided me the following information;

That in Pierce County, Washington, on or about the 11th day of July, 2005, the defendants, VERNDELEAO JOY BANKS, ZACHARY LYNN FRAZIER and ABDUL K CALHOUN, did commit the crimes of robbery and assault.

O the above date at 0345 hours Lakewood Police responded to 14400 block of Washington Avenue Southwest regarding a home invasion style robbery in an apartment at the Village Green Apartment complex.

When Officers arrived they spoke with the occupants of the victim apartment. Victim I.Isaac told officers that she had been sleeping in the living room of the apartment with her two children. She heard a load banging on the front window. Isaac saw two men, later identified as FRAZIER and CALHOUN, entering the apartment through the window. Both men were wearing blue bandanas over portions of their faces.

I.Isaac said FRAZIER ran to a bedroom and confronted Isaac's boyfriend, second victim Kimbrough. Meanwhile CALHOUN jumped on Isaac's sister, third victim C.Isaac. All the while FRAZIER and CALHOUN were yelling, "Where's the safe" "I know you gotta safe." I.Isaac said there was a small briefcase style safe in the apartment. I.Isaac said the safe contained approximately \$00 cash and personal documents. I.Isaac directed FRAZIER and CALHOUN to the safe. FRAZIER found the safe and fled out of the apartment on foot. CALHOUN ran quickly behind him. I.Isaac followed the men and was able to see CALHOUN get into the driver's seat of a waiting truck. FRAZIER got into the passenger seat. The truck drove off. I.Isaac was able to get the license number of the truck.

Second victim R.Kimbrough told police that he had been sleeping in a bedroom with his daughter. Kimbrough woke to the sound of loud bang coming from the living room. Kimbrough exited the bedroom and was met by FRAZIER. FRAZIER was yelling, "where's the safe". FRAZIER started to move past Kimbrough. Kimbrough stopped FRAZIER and told FRAZIER his daughter was in the room. FRAZIER punched Kimbrough in the face, knocking Kimbrough backward. Kimbrough told FRAZIER that the safe was in the living room. Kimbrough continued to hear "Where's the safe" being yelled. By the time Kimbrough made it to the living room I.Isaac was chasing the men out of the apartment.

Third victim C.Isaac told officers that she had been sleeping on a couch in the apartment when she was woken by two men screaming "Where's the safe". C.Isaac said CALHOUN jumped on her, grabbed one of her breasts and the two struggled. C.Isaac said the next thing she knew FRAZIER and CALHOUN were running out the front door of the apartment.

Several minutes later other Lakewood officers located the truck being driven in the 14400 block of 16th Avenue Court South. Officers conducted a traffic stop on the truck. The driver was identified as

DECLARATION FOR DETERMINATION
OF PROBABLE CAUSE -1
Appendix #1 Charging Papers

Office of the Prosecuting Attorney
930 Tacoma Avenue South, Room 946
Tacoma, WA 98402-2171
Main Office (253) 798-7400

1 CALHOUN. The front seat passenger was identified as FRAZIER. BANKS was seated in the middle
2 front seat. After the traffic stop, FRAZIER opened the passenger door and placed an item under the
3 truck. Officers recovered the item and found it was a briefcase style safe. Officers also noted that two
4 blue bandanas fell out of the truck when the occupants were removed from it.

5 I.Isaac and Kimbrough positively identified FRAZIER and CALHOUN as the men who entered
6 the apartment, assaulted C.Isaac and Kimbrough, and took the safe. I.Isaac also identified the safe itself
7 as theirs. Inside the safe officers found \$400 cash and personal documents belonging to I.Isaac and her
8 family.

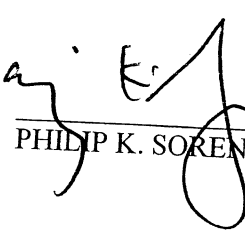
9 Neither Kimbrough nor I.Isaac saw BANKS inside the apartment during the robbery. However,
10 I.Isaac knows BANKS as a long time friend of the family. BANKS has stayed at the apartment with
11 I.Isaac and her family several times and knew that they had a safe that contained money and was usually
12 kept inside the residence. I.Isaac told police that she believed FRAZIER was BANKS' boyfriend, but
13 that he had never been to I.Isaac's residence before. I.Isaac said she had never seen CALHOUN before.

14 During the investigation, FRAZIER was to be placed in secure holding cell at the Lakewood
15 Police Station. FRAZIER resisted the efforts of Lakewood Police Sgt. J.Kolp to place FRAZIER in a
16 holding cell. FRAZIER spit and kicked at Sgt. Kolp, telling Sgt. Kolp that he would "put a bullet" in the
17 Sgt. Kolp's head. Sgt.Kolp reported that FRAZIER actually kicked Sgt. Kolp in the thigh during the
18 process.

19 The three suspects were searched. From FRAZIER'S pocket officers recovered a drug smoking
20 pipe. From BANKS' jacket officers recovered a drug smoking pipe.

21 I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF
22 WASHINGTON THAT THE FOREGOING IS TRUE AND CORRECT.

23 DATED: July 12, 2005
24 PLACE: TACOMA, WA


PHILIP K. SORENSEN, WSB# 16441

DECLARATION FOR DETERMINATION
OF PROBABLE CAUSE -2
Appendix #1 Charging Papers

Office of the Prosecuting Attorney
930 Tacoma Avenue South, Room 946
Tacoma, WA 98402-2171
Main Office (253) 798-7400

NO. 05-1-03396-9
DECLARATION FOR DETERMINATION OF PROBABLE CAUSE

PHILIP K. SORENSEN, declares under penalty of perjury:

That I am a deputy prosecuting attorney for Pierce County and I am familiar with the police report and/or investigation conducted by the LAKEWOOD POLICE DEPARTMENT, incident number 051920143;

That the police report and/or investigation provided me the following information;

That in Pierce County, Washington, on or about the 11th day of July, 2005, the defendants, VERNDELEAO JOY BANKS, ZACHARY LYNN FRAZIER and ABDUL K CALHOUN, did commit the crimes of robbery and assault.

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When Officers arrived they spoke with the occupants of the victim apartment. Victim I.Isaac told officers that she had been sleeping in the living room of the apartment with her two children. She heard a load banging on the front window. Isaac saw two men, later identified as FRAZIER and CALHOUN, entering the apartment through the window. Both men were wearing blue bandanas over portions of their faces.

I.Isaac said FRAZIER ran to a bedroom and confronted Isaac's boyfriend, second victim Kimbrough. Meanwhile CALHOUN jumped on Isaac's sister, third victim C.Isaac. All the while FRAZIER and CALHOUN were yelling, "Where's the safe" "I know you gotta safe." I.Isaac said there was a small briefcase style safe in the apartment. I.Isaac said the safe contained approximately \$00 cash and personal documents. I.Isaac directed FRAZIER and CALHOUN to the safe. FRAZIER found the safe and fled out of the apartment on foot. CALHOUN ran quickly behind him. I.Isaac followed the men and was able to see CALHOUN get into the driver's seat of a waiting truck. FRAZIER got into the passenger seat. The truck drove off. I.Isaac was able to get the license number of the truck.

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DECLARATION FOR DETERMINATION
OF PROBABLE CAUSE -1

Appendix #1 Charging Papers

Office of the Prosecuting Attorney
930 Tacoma Avenue South, Room 946
Tacoma, WA 98402-2171
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2 front seat. After the traffic stop, FRAZIER opened the passenger door and placed an item under the
3 truck. Officers recovered the item and found it was a briefcase style safe. Officers also noted that two
blue bandanas fell out of the truck when the occupants were removed from it.

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the apartment, assaulted C.Isaac and Kimbrough, and took the safe. I.Isaac also identified the safe itself
5 as theirs. Inside the safe officers found \$400 cash and personal documents belonging to I.Isaac and her
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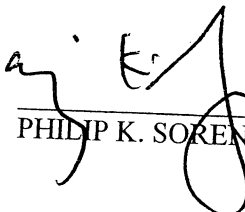
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I.Isaac knows BANKS as a long time friend of the family. BANKS has stayed at the apartment with
7 I.Isaac and her family several times and knew that they had a safe that contained money and was usually
kept inside the residence. I.Isaac told police that she believed FRAZIER was BANKS' boyfriend, but
8 that he had never been to I.Isaac's residence before. I.Isaac said she had never seen CALHOUN before.

9 During the investigation, FRAZIER was to be placed in secure holding cell at the Lakewood
Police Station. FRAZIER resisted the efforts of Lakewood Police Sgt. J.Kolp to place FRAZIER in a
10 holding cell. FRAZIER spit and kicked at Sgt. Kolp, telling Sgt. Kolp that he would "put a bullet" in the
Sgt. Kolp's head. Sgt.Kolp reported that FRAZIER actually kicked Sgt. Kolp in the thigh during the
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11 The three suspects were searched. From FRAZIER'S pocket officers recovered a drug smoking
12 pipe. From BANKS' jacket officers recovered a drug smoking pipe.

13 I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF
WASHINGTON THAT THE FOREGOING IS TRUE AND CORRECT.

14 DATED: July 12, 2005
15 PLACE: TACOMA, WA

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18 PHILIP K. SORENSEN, WSB# 16441
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DECLARATION FOR DETERMINATION
OF PROBABLE CAUSE -2

Appendix #1 Charging Papers

Office of the Prosecuting Attorney
930 Tacoma Avenue South, Room 946
Tacoma, WA 98402-2171
Main Office (253) 798-7400

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SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,

Plaintiff,

CAUSE NO. 05-1-03396-9

vs.

ABDUL K CALHOUN,

INFORMATION

Defendant.

DOB: 3/13/1977
PCN#: 538479764

SEX : MALE
SID#: 15652497

RACE: BLACK
DOL#: OR CALH0AK234DL

CO-DEF: VERNDELEAO JOY BANKS 05-1-03394-2
CO-DEF: ZACHARY LYNN FRAZIER 05-1-03395-1

COUNT I

I, GERALD A. HORNE, Prosecuting Attorney for Pierce County, in the name and by the authority of the State of Washington, do accuse ABDUL K CALHOUN of the crime of ROBBERY IN THE FIRST DEGREE, committed as follows:

That ABDUL K CALHOUN, acting as an accomplice, in the State of Washington, on or about the 11th day of July, 2005, did unlawfully and feloniously take personal property belonging to another with intent to steal from the person or in the presence of r.Kimbrough, the owner thereof or a person having dominion and control over said property, against such person's will by use or threatened use of immediate force, violence, or fear of injury to R.Kimbrough, said force or fear being used to obtain or retain possession of the property or to overcome resistance to the taking, and in the commission thereof, or in immediate flight therefrom the defendant or an accomplice inflicted bodily injury upon R.Kimbrough, contrary to RCW 9A.56.190 and 9A.56.200(1)(iii), and against the peace and dignity of the State of Washington.

COUNT II

And I, GERALD A. HORNE, Prosecuting Attorney for Pierce County, in the name and by the authority of the State of Washington, do accuse ABDUL K CALHOUN of the crime of ROBBERY IN INFORMATION- 1

Appendix #1 Charging Papers

Office of the Prosecuting Attorney
930 Tacoma Avenue South, Room 946
Tacoma, WA 98402-2171
Main Office (253) 798-7100

1 THE FIRST DEGREE, a crime of the same or similar character, and/or a crime based on the same
 2 conduct or on a series of acts connected together or constituting parts of a single scheme or plan, and/or
 3 so closely connected in respect to time, place and occasion that it would be difficult to separate proof of
 one charge from proof of the others, committed as follows:

4 That ABDUL K CALHOUN, acting as an accomplice, in the State of Washington, on or about
 5 the 11th day of July, 2005, did unlawfully and feloniously take personal property belonging to another
 6 with intent to steal from the person or in the presence of C.Isaac, the owner thereof or a person having
 7 dominion and control over said property, against such person's will by use or threatened use of immediate
 8 force, violence, or fear of injury to C.Isaac, said force or fear being used to obtain or retain possession of
 9 the property or to overcome resistance to the taking, and in the commission thereof, or in immediate flight
 therefrom the defendant or an accomplice inflicted bodily injury upon C.Isaac, contrary to RCW
9A.56.190 and 9A.56.200(l)(iii), and against the peace and dignity of the State of Washington.

COUNT III

10 And I, GERALD A. HORNE, Prosecuting Attorney for Pierce County, in the name and by the
 11 authority of the State of Washington, do accuse ABDUL K CALHOUN of the crime of ROBBERY IN
 12 THE SECOND DEGREE, a crime of the same or similar character, and/or a crime based on the same
 13 conduct or on a series of acts connected together or constituting parts of a single scheme or plan, and/or
 so closely connected in respect to time, place and occasion that it would be difficult to separate proof of
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14 That ABDUL K CALHOUN, acting as an accomplice, in the State of Washington, on or about
 15 the 11th day of July, 2005, did unlawfully and feloniously take personal property belonging to another
 16 with intent to steal from the person or in the presence of I.Isaac, the owner thereof or a person having
 17 dominion and control over said property, against such person's will by use or threatened use of immediate
 18 force, violence, or fear of injury to I.Isaac, said force or fear being used to obtain or retain possession of
 the property or to overcome resistance to the taking, contrary to RCW 9A.56.190 and 9A.56.210, and
 against the peace and dignity of the State of Washington.

COUNT IV

19 And I, GERALD A. HORNE, Prosecuting Attorney for Pierce County, in the name and by the
 20 authority of the State of Washington, do accuse ABDUL K CALHOUN of the crime of BURGLARY IN
 21 THE FIRST DEGREE, a crime of the same or similar character, and/or a crime based on the same
 22 conduct or on a series of acts connected together or constituting parts of a single scheme or plan, and/or
 23 so closely connected in respect to time, place and occasion that it would be difficult to separate proof of
 one charge from proof of the others, committed as follows:

24 That ABDUL K CALHOUN, acting as an accomplice, in the State of Washington, on or about
 the 11th day of July, 2005, did unlawfully and feloniously, with intent to commit a crime against a person

INFORMATION- 2

Appendix #1 Charging Papers

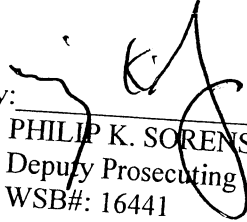
1 or property therein, enter or remain unlawfully in a building, located in Pierce County, and in entering or
2 while in such building or in immediate flight therefrom, the defendant or another participant in the crime
3 did intentionally assault a person therein, contrary to RCW 9A.52.020(1)(b), and against the peace and
4 dignity of the State of Washington.

5 DATED this 12th day of July, 2005.

6 LAKEWOOD POLICE DEPARTMENT
7 WA02723

8 GERALD A. HORNE
9 Pierce County Prosecuting Attorney

10 Pks

11 By: 
12 PHILIP K. SORENSEN
13 Deputy Prosecuting Attorney
14 WSB#: 16441

15 INFORMATION-3

16 Appendix #1 Charging Papers

17 Office of the Prosecuting Attorney
18 930 Tacoma Avenue South, Room 946
19 Tacoma, WA 98402-2171
20 Main Office (253) 708-7100
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- client copy
- rec'd 10/25/05

SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,

Plaintiff,

CAUSE NO. 05-1-03396-9

vs.

ABDUL K CALHOUN,

AMENDED INFORMATION

Defendant.

DOB: 3/13/1977
PCN#: 538479764

SEX : MALE
SID#: 15652497

RACE: BLACK
DOL#: OR CALH0AK234DL

COUNT I

I, GERALD A. HORNE, Prosecuting Attorney for Pierce County, in the name and by the authority of the State of Washington, do accuse ABDUL K CALHOUN of the crime of ROBBERY IN THE FIRST DEGREE, committed as follows:

That ABDUL K CALHOUN, in the State of Washington, on or about the 11th day of July, 2005, did unlawfully and feloniously take personal property belonging to another with intent to steal from the person or in the presence of I. Issac, the owner thereof or a person having dominion and control over said property, against such person's will by use or threatened use of immediate force, violence, or fear of injury to another person, said force or fear being used to obtain or retain possession of the property or to overcome resistance to the taking, and in the commission thereof, or in immediate flight therefrom he inflicted bodily injury upon R. Kimbrough, contrary to RCW 9A.56.190 and 9A.56.200(I)(iii), and against the peace and dignity of the State of Washington.

COUNT II

And I, GERALD A. HORNE, Prosecuting Attorney for Pierce County, in the name and by the authority of the State of Washington, do accuse ABDUL K CALHOUN of the crime of ASSAULT IN THE SECOND DEGREE, a crime of the same or similar character, and/or a crime based on the same conduct or on a series of acts connected together or constituting parts of a single scheme or plan, and/or

1 so closely connected in respect to time, place and occasion that it would be difficult to separate proof of
2 one charge from proof of the others, committed as follows:

3 That ABDUL K CALHOUN, in the State of Washington, on or about the 11th day of July, 2005,
4 did unlawfully and feloniously, under circumstances not amounting to assault in the first degree, with
5 intent to commit a felony, intentionally assault R. Kimbrough, contrary to RCW 9A.36.021(1)(e), and
6 against the peace and dignity of the State of Washington.

COUNT III

7 And I, GERALD A. HORNE, Prosecuting Attorney for Pierce County, in the name and by the
8 authority of the State of Washington, do accuse ABDUL K CALHOUN of the crime of ASSAULT IN
9 THE SECOND DEGREE, a crime of the same or similar character, and/or a crime based on the same
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11 so closely connected in respect to time, place and occasion that it would be difficult to separate proof of
12 one charge from proof of the others, committed as follows:

13 That ABDUL K CALHOUN, in the State of Washington, on or about the 11th day of July, 2005,
14 did unlawfully and feloniously, under circumstances not amounting to assault in the first degree, with
15 intent to commit a felony, intentionally assault C. Issac, contrary to RCW 9A.36.021(1)(e), and against
16 the peace and dignity of the State of Washington.

COUNT IV

17 And I, GERALD A. HORNE, Prosecuting Attorney for Pierce County, in the name and by the
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19 THE FIRST DEGREE, a crime of the same or similar character, and/or a crime based on the same
20 conduct or on a series of acts connected together or constituting parts of a single scheme or plan, and/or
21 so closely connected in respect to time, place and occasion that it would be difficult to separate proof of
22 one charge from proof of the others, committed as follows:

23 That ABDUL K CALHOUN, in the State of Washington, on or about the 11th day of July, 2005,
24 did unlawfully and feloniously, with intent to commit a crime against a person or property therein, enter
or remain unlawfully in a building, located in Pierce County, and in entering or while in such building or
in immediate flight therefrom, the defendant or another participant in the crime did intentionally assault

1 R. Kimbrough and/or C. Issac, a person therein, contrary to RCW 9A.52.020(1)(b), and against the peace
2 and dignity of the State of Washington.

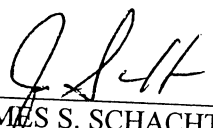
3 DATED this 25th day of October, 2005.

4 LAKEWOOD POLICE DEPARTMENT
5 WA02723

GERALD A. HORNE
Pierce County Prosecuting Attorney

6 jss

7 By:


JAMES S. SCHACHT
Deputy Prosecuting Attorney
WSB#: 17298

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AMENDED INFORMATION- 3

Appendix 42 Charging Papers

Office of the Prosecuting Attorney
930 Tacoma Avenue South, Room 946
Tacoma, WA 98402-2171
Main Office (253) 798-7400

3396-9
NO. 05-1-03394-2

SUPPLEMENTAL DECLARATION FOR DETERMINATION OF PROBABLE CAUSE

JAMES S. SCHACHT, declares under penalty of perjury:

That I am a deputy prosecuting attorney for Pierce County and I am familiar with the police report and/or investigation conducted by the LAKEWOOD POLICE DEPARTMENT, incident number 051920143;

That the police report and/or investigation provided me the following information;

That in Pierce County, Washington, on or about the 11th day of July, 2005, the defendants, VERNDELEAO JOY BANKS, ZACHARY LYNN FRAZIER and ABDUL K. CALHOUN, commit the crimes listed in the Amended Information as follows:

The original Declaration For Determination of Probable Cause in this case is hereby incorporated in this declaration by reference. As is alleged in that declaration the defendants acting together as principals and accomplices unlawfully broke into the home occupied by the victims and their children and stole a safe. The safe contained approximately \$400 cash and personal documents belonging to victim I. Issac. In the course of the break in and stealing of the safe defendant Frazier assaulted victim R. Kimbrough by punching him in the face. Immediately before the assault Frazier was yelling where's the safe. Immediately after the assault Mr. Kimbrough told Frazier the safe was in the livingroom. Thus the assault was committed with intent to commit the felonies of Robbery in the First Degree, Robbery in the Second Degree and/or Burglary in the First Degree.

As is further detailed in the original probable cause declaration, defendant Calhoun jumped on victim C. Issac after breaking into the residence. Both he and Frazier were screaming about "Where's the safe." While Calhoun was on top of Ms. Issac, he grabbed her breasts and struggled with her. After Calhoun assaulted Ms. Issac, defendant Frazier found the safe and then the two men fled the apartment with the safe. Thus the assault on Ms. Issac was committed with intent to commit the felonies of Robbery in the First Degree, Robbery in the Second Degree and/or Burglary in the First Degree.

I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF WASHINGTON THAT THE FOREGOING IS TRUE AND CORRECT.

DATED: October 25, 2005

PLACE: TACOMA, WA


JAMES S. SCHACHT, WSB# 17298

- client copy
- rec'd 10/25/05

SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,

Plaintiff,

CAUSE NO. 05-1-03396-9

vs.

ABDUL K CALHOUN,

Defendant.

AMENDED INFORMATION

DOB: 3/13/1977
PCN#: 538479764

SEX : MALE
SID#: 15652497

RACE: BLACK
DOL#: OR CALH0AK234DL

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AMENDED INFORMATION- 1

Appendix #2 Charging Papers

Office of the Prosecuting Attorney
930 Tacoma Avenue South, Room 946
Tacoma, WA 98402-2171
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 8 authority of the State of Washington, do accuse ABDUL K CALHOUN of the crime of ASSAULT IN
 9 THE SECOND DEGREE, a crime of the same or similar character, and/or a crime based on the same
 10 conduct or on a series of acts connected together or constituting parts of a single scheme or plan, and/or
 11 so closely connected in respect to time, place and occasion that it would be difficult to separate proof of
 12 one charge from proof of the others, committed as follows:

13 That ABDUL K CALHOUN, in the State of Washington, on or about the 11th day of July, 2005,
 14 did unlawfully and feloniously, under circumstances not amounting to assault in the first degree, with
 15 intent to commit a felony, intentionally assault C. Issac, contrary to RCW 9A.36.021(1)(e), and against
 16 the peace and dignity of the State of Washington.

COUNT IV

17 And I, GERALD A. HORNE, Prosecuting Attorney for Pierce County, in the name and by the
 18 authority of the State of Washington, do accuse ABDUL K CALHOUN of the crime of BURGLARY IN
 19 THE FIRST DEGREE, a crime of the same or similar character, and/or a crime based on the same
 20 conduct or on a series of acts connected together or constituting parts of a single scheme or plan, and/or
 21 so closely connected in respect to time, place and occasion that it would be difficult to separate proof of
 22 one charge from proof of the others, committed as follows:

23 That ABDUL K CALHOUN, in the State of Washington, on or about the 11th day of July, 2005,
 24 did unlawfully and feloniously, with intent to commit a crime against a person or property therein, enter
 or remain unlawfully in a building, located in Pierce County, and in entering or while in such building or
 in immediate flight therefrom, the defendant or another participant in the crime did intentionally assault

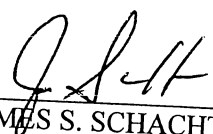
1 R. Kimbrough and/or C. Issac, a person therein, contrary to RCW 9A.52.020(1)(b), and against the peace
2 and dignity of the State of Washington.

3 DATED this 25th day of October, 2005.

4 LAKEWOOD POLICE DEPARTMENT
5 WA02723

GERALD A. HORNE
Pierce County Prosecuting Attorney

6 jss

7 By: 
8 JAMES S. SCHACHT
9 Deputy Prosecuting Attorney
10 WSB#: 17298
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AMENDED INFORMATION- 3

Appendix #2 Charging Papers

Office of the Prosecuting Attorney
930 Tacoma Avenue South, Room 946
Tacoma, WA 98402-2171
Main Office (253) 798-7400

3396-9
NO. 05-1-03394-2

SUPPLEMENTAL DECLARATION FOR DETERMINATION OF PROBABLE CAUSE

JAMES S. SCHACHT, declares under penalty of perjury:

That I am a deputy prosecuting attorney for Pierce County and I am familiar with the police report and/or investigation conducted by the LAKEWOOD POLICE DEPARTMENT, incident number 051920143;

That the police report and/or investigation provided me the following information;

That in Pierce County, Washington, on or about the 11th day of July, 2005, the defendants, VERNDELEAO JOY BANKS, ZACHARY LYNN FRAZIER and ABDUL K. CALHOUN, commit the crimes listed in the Amended Information as follows:

The original Declaration For Determination of Probable Cause in this case is hereby incorporated in this declaration by reference. As is alleged in that declaration the defendants acting together as principals and accomplices unlawfully broke into the home occupied by the victims and their children and stole a safe. The safe contained approximately \$400 cash and personal documents belonging to victim I. Issac. In the course of the break in and stealing of the safe defendant Frazier assaulted victim R. Kimbrough by punching him in the face. Immediately before the assault Frazier was yelling where's the safe. Immediately after the assault Mr. Kimbrough told Frazier the safe was in the livingroom. Thus the assault was committed with intent to commit the felonies of Robbery in the First Degree, Robbery in the Second Degree and/or Burglary in the First Degree.

As is further detailed in the original probable cause declaration, defendant Calhoun jumped on victim C. Issac after breaking into the residence. Both he and Frazier were screaming about "Where's the safe." While Calhoun was on top of Ms. Issac, he grabbed her breasts and struggled with her. After Calhoun assaulted Ms. Issac, defendant Frazier found the safe and then the two men fled the apartment with the safe. Thus the assault on Ms. Issac was committed with intent to commit the felonies of Robbery in the First Degree, Robbery in the Second Degree and/or Burglary in the First Degree.

I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF WASHINGTON THAT THE FOREGOING IS TRUE AND CORRECT.

DATED: October 25, 2005
PLACE: TACOMA, WA


JAMES S. SCHACHT, WSB# 17298

SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,)
 Plaintiff)
 vs.)
Abdul Pathan,)
 Defendant)

Cause No. 05-1-03396-9

ORDER CONTINUING TRIAL

This motion for continuance is brought by ☐ state ☐ defendant ☐ court.

☐ upon agreement of the parties pursuant to CrR 3.3(f)(1) or

☒ is required in the administration of justice pursuant to CrR 3.3(f)(2) and the defendant will not be prejudiced in his or her defense or

☐ for administrative necessity.

Reasons: G-A continuance: additional time necessary for investigation

☐ RCW 10.46.085 (child victim/sex offense) applies. The Court finds there are substantial and compelling reasons for a continuance and the benefit of postponement outweighs the detriment to the victim.

IT IS HEREBY ORDERED THE DEFENDANT SHALL BE PRESENT AND REPORT TO:

	DATE	TIME	COURT ROOM	ID NUMBER
<input checked="" type="checkbox"/> OMNIBUS HEARING	9/28/05	8:30 AM	C01560	1914370
<input type="checkbox"/> STATUS CONFERENCE HEARING				
<input type="checkbox"/> TRIAL READINESS STATUS CONFERENCE				
THE CURRENT TRIAL DATE OF: <u>8/23/05</u>	IS CONTINUED TO: <u>10/05/05</u> @ 8:30 am Room <u>C01560</u> <u>211A</u> <u>1P.J.</u>			

Expiration date is: 10/05/05 (Defendant's presence not required) TFT days remaining: 300

DONE IN OPEN COURT this 27th day of August, 2005

Defendant

Attorney for Defendant/Bar #

Judge

Prosecuting Attorney/Bar # 11298

I am fluent in the _____ language, and I have translated this entire document for the defendant from English into that language. I certify under penalty of perjury that the foregoing is true and correct.

 Interpreter/Certified/Qualified
 Pierce County, Washington Appendix #3

SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,
Plaintiff

vs.

Defendant

Cause No. _____

ORDER CONTINUING TRIAL

This motion for continuance is brought by ☐ state ☐ defendant ☐ court.

☐ upon agreement of the parties pursuant to CrR 3.3(f)(1) or

☐ is required in the administration of justice pursuant to CrR 3.3(f)(2) and the defendant will not be prejudiced in his or her defense or

☐ for administrative necessity.

Reasons: _____

☐ RCW 10.46.085 (child victim/sex offense) applies. The Court finds there are substantial and compelling reasons for a continuance and the benefit of postponement outweighs the detriment to the victim.

IT IS HEREBY ORDERED THE DEFENDANT SHALL BE PRESENT AND REPORT TO:

	DATE	TIME	COURT ROOM	ID NUMBER
<input type="checkbox"/> OMNIBUS HEARING	11/14/15	8:30 AM	211 A	199681
<input type="checkbox"/> STATUS CONFERENCE HEARING				
<input type="checkbox"/> TRIAL READINESS STATUS CONFERENCE				
THE CURRENT TRIAL DATE OF: 11/14/15	IS CONTINUED TO: 11/14/15 @ 8:30 am Room 211 A / DT			

Expiration date is: _____ (Defendant's presence not required) TFT days remaining: 30

DONE IN OPEN COURT this 24 day of Oct, 2015

Defendant

Judge

Attorney for Defendant/Bar #

Prosecuting Attorney/Bar #

I am fluent in the _____ language, and I have translated this entire document for the defendant from English into that language. I certify under penalty of perjury that the foregoing is true and correct.

Interpreter/Certified/Qualified
Pierce County, Washington

Appendix #4

SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,)
Plaintiff)

vs.)

Cause No. 03-1-03346-4

ORDER CONTINUING TRIAL

Abdulhakim K. Calhoun,)
Defendant)

This motion for continuance is brought by ☒ state ☐ defendant ☐ court.

☐ upon agreement of the parties pursuant to CrR 3.3(f)(1) or

☐ is required in the administration of justice pursuant to CrR 3.3(f)(2) and the defendant will not be prejudiced in his or her defense or

☐ for administrative necessity.

Reasons: DPA Schacht is in trial. Defense has been unable to
interview the "alleged" witness & may make motion for deposition
of them.

☐ RCW 10.46.085 (child victim/sex offense) applies. The Court finds there are substantial and compelling reasons for a continuance and the benefit of postponement outweighs the detriment to the victim.

IT IS HEREBY ORDERED THE DEFENDANT SHALL BE PRESENT AND REPORT TO:

	DATE	TIME	COURT ROOM	ID NUMBER
<input type="checkbox"/> OMNIBUS HEARING				
<input type="checkbox"/> STATUS CONFERENCE HEARING				
<input type="checkbox"/> TRIAL READINESS STATUS CONFERENCE				14C1668
THE CURRENT TRIAL DATE OF: <u>12/14/05</u>	IS CONTINUED TO: <u>4/05/06</u> @ 8:30 am Room <u>211</u> CDP			

Expiration date is: 4/5/06 (Defendant's presence not required)

TFT days remaining: 20

DONE IN OPEN COURT this 14 day of Dec, 2005

A.C. Signed under duress on Internet
Defendant

Alma
Judge

Buttman
Attorney for Defendant/Bar # 11278

Alma
Prosecuting Attorney/Bar # 21012

I am fluent in the _____ language, and I have translated this entire document for the defendant from English into that language. I certify under penalty of perjury that the foregoing is true and correct.

Pierce County, Washington Appendix #5
Interpreter/Certified/Qualified

_____,
Defendant

ORDER CONTINUING TRIAL

Reasons: _____

IT IS HEREBY ORDERED THE DEFENDANT SHALL BE PRESENT AND REPORT TO:

<input type="checkbox"/> OMNIBUS HEARING <input type="checkbox"/> STATUS CONFERENCE HEARING <input type="checkbox"/> TRIAL READINESS STATUS CONFERENCE				DATE	TIME	COURT ROOM	ID NUMBER
THE CURRENT TRIAL DATE OF: 01/29/20				IS CONTINUED TO: 01/29/20 @ 8:30 am Room 1468 100			

Expiration date is: _____ (Defendant's presence not required) TFT days remaining : _____

DONE IN OPEN COURT this _____ day of _____, 20__.

Judge _____

Prosecuting Attorney/Bar #

I am fluent in the _____ language, and I have translated this entire document for the defendant from English into that language. I certify under penalty of perjury that the foregoing is true and correct.

 Interpreter/Certified/Qualified

SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,
Plaintiff

vs.

Defendant

Cause No. _____

ORDER CONTINUING TRIAL

This motion for continuance is brought by ☐ state ☐ defendant ☐ court.

☐ upon agreement of the parties pursuant to CrR 3.3(f)(1) or

☐ is required in the administration of justice pursuant to CrR 3.3(f)(2) and the defendant will not be prejudiced in his or her defense or

☐ for administrative necessity.

Reasons:

☐ RCW 10.46.085 (child victim/sex offense) applies. The Court finds there are substantial and compelling reasons for a continuance and the benefit of postponement outweighs the detriment to the victim.

IT IS HEREBY ORDERED THE DEFENDANT SHALL BE PRESENT AND REPORT TO:

	DATE	TIME	COURT ROOM	ID NUMBER
<input type="checkbox"/> OMNIBUS HEARING				
<input type="checkbox"/> STATUS CONFERENCE HEARING				
<input type="checkbox"/> TRIAL READINESS STATUS CONFERENCE				
THE CURRENT TRIAL DATE OF: 01/21/06	IS CONTINUED TO: 01/23/06 @ 8:30 am Room 5.F.			

Expiration date is: 01/23/06 (Defendant's presence not required)

TFT days remaining : _____

DONE IN OPEN COURT this _____ day of _____, 20__.

Defendant

Judge

Attorney for Defendant/Bar # _____

Prosecuting Attorney/Bar # _____

I am fluent in the _____ language, and I have translated this entire document for the defendant from English into that language. I certify under penalty of perjury that the foregoing is true and correct.

Interpreter/Certified/Qualified _____ Pierce County, Washington

Appendix #6

SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,
Plaintiff

vs.

Abdul Calhoun,
Defendant

Cause No. 17-1-00007

ORDER CONTINUING TRIAL

This motion for continuance is brought by ☐ state ☐ defendant ☐ court.
☐ upon agreement of the parties pursuant to CrR 3.3(f)(1) or
☒ is required in the administration of justice pursuant to CrR 3.3(f)(2) and the defendant will not be prejudiced in his or her defense or
☐ for administrative necessity.

Reasons: Defendant moved to discharge his attorney, including the court has been apprised of all needs by the parties.

☐ RCW 10.46.085 (child victim/sex offense) applies. The Court finds there are substantial and compelling reasons for a continuance and the benefit of postponement outweighs the detriment to the victim.

IT IS HEREBY ORDERED THE DEFENDANT SHALL BE PRESENT AND REPORT TO:

<input type="checkbox"/> OMNIBUS HEARING <input type="checkbox"/> STATUS CONFERENCE HEARING <input checked="" type="checkbox"/> TRIAL READINESS STATUS CONFERENCE	DATE	TIME	COURT ROOM	ID NUMBER
THE CURRENT TRIAL DATE OF: <u>1/21/06</u>	IS CONTINUED TO: <u>3/6/06 @ 8:30 am Room 211A</u>			

Expiration date is: _____ (Defendant's presence not required) TFT days remaining : 30.

DONE IN OPEN COURT this 25 day of Jan, 2006.

Take Notice A.C. without Recourse

Defendant

Attorney for Defendant/Bar # 33603

Judge

Prosecuting Attorney/Bar # 17296

I am fluent in the _____ language, and I have translated this entire document for the defendant from English into that language. I certify under penalty of perjury that the foregoing is true and correct.

Interpreter/Certified/Qualified Pierce County, Washington Appendix #7

SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,
Plaintiff

vs.

Abdul Calhoun,
Defendant

Cause No. 25102917

ORDER CONTINUING TRIAL

NMC

This motion for continuance is brought by ☐ state ☒ defendant ☐ court.
☒ upon agreement of the parties pursuant to CrR 3.3(f)(1) or attorney
☒ is required in the administration of justice pursuant to CrR 3.3(f)(2) and the defendant will not be prejudiced in his or her defense or
☐ for administrative necessity.

Reasons: DPA had been expected to start trial today, on a 2 CO. Defendant murder. That case was continued over the status objection. Defense counsel is in trial on Oct. 9.

☐ RCW 10.46.085 (child victim/sex offense) applies. The Court finds there are substantial and compelling reasons for a continuance and the benefit of postponement outweighs the detriment to the victim.

IT IS HEREBY ORDERED THE DEFENDANT SHALL BE PRESENT AND REPORT TO:

	DATE	TIME	COURT ROOM	ID NUMBER
<input type="checkbox"/> OMNIBUS HEARING				
<input type="checkbox"/> STATUS CONFERENCE HEARING				
<input checked="" type="checkbox"/> TRIAL READINESS STATUS CONFERENCE	2/21/06	8:30	CORT	
THE CURRENT TRIAL DATE OF: <u>3/6/06</u>	IS CONTINUED TO: <u>3/27/06 @ 8:30 am Room 311A</u>			

Expiration date is: 4/27/06 (Defendant's presence not required) TFT days remaining: 30

DONE IN OPEN COURT this 6th day of Mar, 2006

Defendant

Attorney for Defendant/Bar # 33603

Judge

Prosecuting Attorney/Bar # 12298

I am fluent in the _____ language, and I have translated this entire document for the defendant from English into that language. I certify under penalty of perjury that the foregoing is true and correct.

Interpreter/Certified/Qualified

Appendix 48

SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,)
Plaintiff)

vs.)

Robert Colburn,)
Defendant)

Cause No. 03 / 03290-9

ORDER CONTINUING TRIAL

≡ NMC ≡

This motion for continuance is brought by ☐ state ☒ defendant ☐ court.

☐ upon agreement of the parties pursuant to CrR 3.3(f)(1) or

☒ is required in the administration of justice pursuant to CrR 3.3(f)(2) and the defendant will not be prejudiced in his or her defense or

☐ for administrative necessity.

Reasons: Consent by Mr. Colburn is in final. Consent for continuance
because of date is final.

☐ RCW 10.46.085 (child victim/sex offense) applies. The Court finds there are substantial and compelling reasons for a continuance and the benefit of postponement outweighs the detriment to the victim.

IT IS HEREBY ORDERED THE DEFENDANT SHALL BE PRESENT AND REPORT TO:

	DATE	TIME	COURT ROOM	ID NUMBER
<input type="checkbox"/> OMNIBUS HEARING				
<input type="checkbox"/> STATUS CONFERENCE HEARING				
<input type="checkbox"/> TRIAL READINESS STATUS CONFERENCE				
THE CURRENT TRIAL DATE OF: <u>3/28/06</u>	IS CONTINUED TO: <u>4-17-06 @ 8:30 am Room 2119</u>			

Expiration date is: 5/17/06 (Defendant's presence not required) TFT days remaining: 30

DONE IN OPEN COURT this 28th day of Mar, 2006. No Further Continuances

In custody
Defendant
Michael
Attorney for Defendant/Bar #

Liam Womack
Judge
Robert
Prosecuting Attorney/Bar # 17495

I am fluent in the _____ language, and I have translated this entire document for the defendant from English into that language. I certify under penalty of perjury that the foregoing is true and correct.

Interpreter/Certified/Qualified

Pierce County, Washington

Appendix "B"

SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,)
Plaintiff)

Cause No. 05-1-033969

vs.)

ORDER CONTINUING TRIAL

ABDUL CALHOUN)
Defendant)

≡ NMC ≡

This motion for continuance is brought by ☒ state ☐ defendant ☐ court.

☐ upon agreement of the parties pursuant to CrR 3.3(f)(1) or

☒ is required in the administration of justice pursuant to CrR 3.3(f)(2) and the defendant will not be prejudiced in his or her defense or

☐ for administrative necessity.

Reasons: ADA in trial

☐ RCW 10.46.085 (child victim/sex offense) applies. The Court finds there are substantial and compelling reasons for a continuance and the benefit of postponement outweighs the detriment to the victim.

IT IS HEREBY ORDERED THE DEFENDANT SHALL BE PRESENT AND REPORT TO:

	DATE	TIME	COURT ROOM	ID NUMBER
<input type="checkbox"/> OMNIBUS HEARING				
<input type="checkbox"/> STATUS CONFERENCE HEARING				
<input type="checkbox"/> TRIAL READINESS STATUS CONFERENCE				
THE CURRENT TRIAL DATE OF: <u>4/17/06</u>	IS CONTINUED TO: <u>4/18/06 @ 8:30 am Room 211A</u>			

Expiration date is: 5/16 (Defendant's presence not required)

TFT days remaining: 29

DONE IN OPEN COURT this 17th day of April, 2006

Defendant

Judge

Attorney for Defendant/Bar # 33602

Prosecuting Attorney/Bar # 34050

I am fluent in the _____ language, and I have translated this entire document for the defendant from English into that language. I certify under penalty of perjury that the foregoing is true and correct.

Interpreter/Certified/Qualified

Appendix #10

SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,)
Plaintiff)

Cause No. 351-62296-9

vs.)

ORDER CONTINUING TRIAL

ABDUL CALHOUN,)
Defendant)

This motion for continuance is brought by ☐ state ☐ defendant ☐ court.
☐ upon agreement of the parties pursuant to CrR 3.3(f)(1) or
☐ is required in the administration of justice pursuant to CrR 3.3(f)(2) and the defendant will not be prejudiced in his or her defense or
☐ for administrative necessity.
 Reasons: APA SCHEDULE IN TRIAL

☐ RCW 10.46.085 (child victim/sex offense) applies. The Court finds there are substantial and compelling reasons for a continuance and the benefit of postponement outweighs the detriment to the victim.

IT IS HEREBY ORDERED THE DEFENDANT SHALL BE PRESENT AND REPORT TO:

<input type="checkbox"/> OMNIBUS HEARING	DATE	TIME	COURT ROOM	ID NUMBER
<input type="checkbox"/> STATUS CONFERENCE HEARING				
<input type="checkbox"/> TRIAL READINESS STATUS CONFERENCE				
THE CURRENT TRIAL DATE OF: <u>4/18/06</u>	IS CONTINUED TO: <u>4/19/06</u> @ 8:30 am Room <u>211A</u>			

Expiration date is: 5/16/06 (Defendant's presence not required) TFT days remaining: 28

DONE IN OPEN COURT this 18th day of April, 2006

Defendant

Judge

Attorney for Defendant/Bar # 33603

Prosecuting Attorney/Bar # 34650

I am fluent in the _____ language, and I have translated this entire document for the defendant from English into that language. I certify under penalty of perjury that the foregoing is true and correct.

 Interpreter/Certified/Qualified
 Pierce County, Washington Appendix #11

Arrest Report

Quick Print

ORIGINAL

PDA: Yes Homeland Security: No Subject: Burglary 1st, Robbery 2nd, Assault 3rd Arrest

Incident No.
051920143.1

IBR Disposition: Arrest	Case Management Disposition:
Forensics:	Reporting By/Date: LD04056 - Bell, Eric 07/11/05 03:50:00
Case Report Status: Approved	Reviewed By/Date: LD04107 - Latimer, Darrin 07/11/05 10:06:44

Related Cases:

Case Report Number Agency

OFFICIAL USE

Non-Electronic Attachments

Attachment Type Additional Distribution

AI - Authorization for Impound

HWS - Handwritten Statement Form

THIS INFORMATION RESTRICTED TO CRIMINAL
JUSTICE AGENCIES. SECONDARY RELEASE IS
NOT AUTHORIZED PURSUANT TO RCW 42.17 &
RCW 100.1. PREPARED BY L.E.S.A. #

Count

1

3

Location Address: 14436 WASHINGTON AV SW	Location Name: Village Green Apartments
City, State, Zip:	Cross Street:
Contact Location:	City, State, Zip:
CB/Grid/RD: 265 - LAKEWOOD	District/Sector: LD01 - Lakewood (South Lakes)
Occurred From: 07/11/05 03:45:00 Monday	Occurred To:
Notes:	

Offense Details: 2202 - Burglary - Forced Entry - Residence

Domestic Violence: No	Child Abuse: No	Gang Related: No	Juvenile: No
Completed: Completed	Crime Against: PR	Hate/Bias: None (No Bias)	
Criminal Activity:		Using:	
Location Type: Apartment	Type of Security: Deadbolts/Locks/Padlock	Tools:	
Total No. of Units Entered:	Evidence Collected:		
Entry Method: Unlawful Entry			
Notes:			

Offense Details: 1209 - Robbery - Residence - Strongarm

Domestic Violence: No Child Abuse: No Gang Related: No Juvenile: No

Call Source: Dispatched	Assisted By: LD04079 - Johnson, Peter LD04018 - Martin, Russell LD04013 - Kolp, Joseph LD04020 - Wurts, Brian LD04082 - Wiley, Michael LD04083 - Herriott, Karen
Phone Report:	Notified:
Insurance Letter:	Entered By: LD04056 - Bell, Eric
Entered On: 07/11/05 05:52:55	Approved By: E10971 - Klein, Tina
Approved On: 07/11/05 12:32:25	Exceptional Clearance:
Adult/Juvenile Clearance:	Exceptional Clearance Date:
Additional Distribution:	Other Distribution:
Validation Processing	Distribution Date: 7-11 By: 128 County Pros. Atty. 4 Juvenile Military
	Indexed Date: By: City Pros. Atty. Other DSHS CPS PreTrial Supervisor:

For Law Enforcement Use Only - No Secondary Dissemination Allowed

Records has the authority to ensure correct agency, CB/Grid/RD, and District/Sector are incorporated in the report.

Printed: July 11, 2005 - 12:32 PM
Printed By: Klein, Tina

Lakewood Police Department Arrest Report

Incident No 051920143.1

Page 3 of 18

Arrest Location: 14436 WASHINGTON AV SW #14 Lakewood,WA	Released Location:	Held For:
Arrest Offense: 1209 - Robbery - Residence - Strongarm 2202 - Burglary - Forced Entry - Residence 3591 - Drug - Paraphernalia 1318 - Assault - Nonaggravated (Simple) - Police Officer		Date/Time Released:
Arrest Type: On-view Booked - New Probable Cause		Juvenile Disposition:
Armed With: Unarmed		Adult Present Name:
Miranda Read: Yes	Miranda Waived: Yes	Detention Name:
No. Warrants:	Multi. Clearance: Not Applicable	Notified Name:
Fingerprints: Yes	Photos: Yes	Previous Offender:
Type of Injury:		Fire Dept Response:
Hospital Taken To:	Medical Release Obtained:	Taken By:
Attending Physician:	Hold Placed By:	

New Charges

Arrest #	Book/Cite	Charge Description - RCW/Ordinance	Free Text Charge Description	Court	Bail	Count
000000	Book	F - - Assault 3rd Degree - RCW - 9A.36.031		Pierce County Superior Court	10000	1
000000	Book	F - - Robbery 2nd - RCW - 9A.56.210		Pierce County Superior Court	10000	1
000000	Book	F - - Burglary 1st - RCW - 9A.52.020		Pierce County Superior Court	50000	1
000000	Book	M - TACSO - Possession Of Drug Paraphernalia - RCW - 69.50.412		Lakewood Municipal Court	250	1

Warrants

Arrest #	Warrant #	Free Text Charge Description	Agency	Court	Bail
----------	-----------	------------------------------	--------	-------	------

Arrest Notes:	
Probable Cause:	Frazier entered an apartment through a closed window, then assaulted the homeowners before stealing the safe and fleeing. While Frazier was being transported into a holding cell he kicked a Lakewood Police Officer in the leg and threatened to kill him when he got out of handcuffs.

Arrestee A2: Calhoun, Abdul K PDA: No

Aliases:	DOB: 03/13/77	Age: 28	Sex: Male	Race: Black	Ethnicity: Non-Hispanic
Height: 6' 2"	Weight: 170	Hair Color: Black	Eye Color: Brown	Phone:	
Address: Homeless	County:	Country:	Business Phone:	Other Phone:	
City, State Zip: WA	Occupation/Grade:	DOC No:	Employer/School:	FBI No:	
Other Address:	Local CH No:	Driver License State:	Facial Hair:	Facial Shape:	
Resident: Unknown	Driver License:	Complexion:	Facial Feature:	Oddities:	
SSN:	Speech:	Distinctive Features:	Body Build:		
State ID:	Right/ Left Handed:				
Driver License No:					
Hair Length:					
Hair Style:					
Hair Type:					
Appearance:					
SMT:					
Attire:					

For Law Enforcement Use Only - No Secondary Dissemination Allowed

Printed: July 11, 2005 - 12:32 PM
Printed By: Klein, Tina

Lakewood Police Department Arrest Report

Incident No 051920143.1

Page 5 of 18

Gangs:		Tribe Affiliation:	
Significant Trademarks:		Identifiers:	
spect Pretended to Be:		Modus Operandi:	
Place Of Birth:		Habitual Offender:	
Date/Time Arrested:	07/11/05 04:25:00	Booked Location:	Pierce County Jail
Arrest Location:	14436 WASHINGTON AV SW #14	Released Location:	
Arrest Offense:	1209 - Robbery - Residence - Strongarm 2202 - Burglary - Forced Entry - Residence 3591 - Drug - Paraphernalia	Date/Time Released:	
Arrest Type:	On-view Booked - New Probable Cause	Juvenile Disposition:	
Armed With:	Unarmed	Adult Present Name:	
Miranda Read:	Yes	Miranda Waived:	Yes
No. Warrants:		Multi. Clearance:	Not Applicable
Fingerprints:	Yes	Photos:	Yes
Type of Injury:		Detention Name:	
		Notified Name:	
		Previous Offender:	
		Fire Dept Response:	
Hospital Taken To:		Medical Release Obtained:	
Attending Physician:		Hold Placed By:	
		Taken By:	

New Charges

Arrest #	Book/Cite	Charge Description - RCW/Ordinance	Free Text Charge Description	Court	Bail	Count
000000	Book	F - - Burglary 1st - RCW - 9A.52.020		Pierce County Superior Court	50000	1
000000	Book	F - - Robbery 2nd - RCW - 9A.56.210		Pierce County Superior Court	10000	1
0000	Book	M - TACSO - Possession Of Drug Paraphernalia - RCW - 69.50.412		Lakewood Municipal Court	250	1

Warrants

Arrest #	Warrant #	Free Text Charge Description	Agency	Court	Bail
----------	-----------	------------------------------	--------	-------	------

Arrest Notes:

Probable Cause: Banks assisted Zachary Frazier and Abdul Calhoun as they entered an apartment through a closed window assaulting the homeowners and then stealing a safe that contained money and documents.

Weapon 1: Personal Weapon (hands, fists, feet, etc.)

Offense:	1209 - Robbery - Residence - Strongarm	Serial No:	
Offender:	A1 - Frazier, Zachary L	OAN:	
Weapon:	Personal Weapon (hands, fists, feet, etc.)	Automatic:	
Other Weapon:		Caliber:	
Action:		Gauge:	
Manufacturer:		Length:	
Make:		Finish:	
Importer:		Grips:	
Model:		Stock:	
Weapon Notes:			

Weapon 2: Personal Weapon (hands, fists, feet, etc.)

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Lakewood Police Department Arrest Report

Incident No. 051920143.1

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Victim Offender Relationships

Offender:	Relationship:
A1 - Frazier, Zachary L	Victim Was Acquaintance
- Calhoun, Abdul K	Victim Was Stranger
A3 - Banks, Verndeleao Joy	Victim Was Friend

Law Enforcement Officer Killed or Assaulted Information	Type: Assignment: Activity:	Justifiable Homicide Circumstances:
---	-----------------------------	-------------------------------------

Victim Notes:	
---------------	--

Victim V2: Kimbrough, Rolan D

PDA:

Aliases:	DOB: 01/14/83	Age: 22	Sex: Male	Race: Black	Ethnicity: Non-Hispanic
Height: 6' 1"	Weight: 200	Hair Color: Black	Eye Color: Brown	Phone: 253 582-0938	
Address: 14436 WASHINGTON AV SW #14	County:	City, State Zip: Lakewood, WA	Country:	Business Phone:	
Other Address:	Resident: Full - Time Resident	Occupation/Grade:	Employer/School:	Other Phone:	
SSN:	Driver License No:	Driver License State:	Place of Birth:	Employer/School:	
Attire:	SMT:	Complexion:	Facial Hair:	Facial Shape:	
Victim Of: 1209 - Robbery - Residence - Strongarm	2202 - Burglary - Forced Entry - Residence	Weapon Used:	Reporting Statement Obtained: Yes	Fire Dept Response:	
Victim Type: Individual	Circumstances:	Testify: Yes	Reporting Statement Obtained: Yes	Fire Dept Response:	
Injury: None	Medical Release Obtained:	Taken By:			
Type of Injury:	Medical Release Obtained:	Taken By:			
Hospital Taken To:	Medical Release Obtained:	Taken By:			
Attending Physician:	Hold Placed By:				

Victim Offender Relationships

Offender:	Relationship:
A1 - Frazier, Zachary L	Victim Was Acquaintance
A2 - Calhoun, Abdul K	Victim Was Stranger
A3 - Banks, Verndeleao Joy	Victim Was Acquaintance

Law Enforcement Officer Killed or Assaulted Information	Type: Assignment: Activity:	Justifiable Homicide Circumstances:
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Victim Notes:	
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Victim V3: Isaac, Celia L

PDA:

Aliases:	
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Hospital Taken To:	Medical Release Obtained:	Taken By:
Attending Physician:	Hold Placed By:	

Victim Offender Relationships

Offender:	Relationship:
A1 - Frazier, Zachary L	Victim Was Stranger
A2 - Calhoun, Abdul K	Victim Was Stranger
A3 - Banks, Verndealeo Joy	Victim Was Stranger

Law Enforcement Officer Killed or Assaulted Information	Type: Assignment: Activity:	Justifiable Homicide Circumstances:
---	-----------------------------	-------------------------------------

Victim Notes:

Victim V5: Wickson, Janae

PDA: Yes

Aliases:	DOB:	Age: 04	Sex: Female	Race: Black	Ethnicity: Non-Hispanic
Height:	Weight:	Hair Color:	Eye Color:	Phone: 253 582-0938	
Address: 14436 WASHINGTON AV SW #14	County:				
City, State Zip: Lakewood, WA	Country:		Business Phone:		
Other Address:			Other Phone:		
Resident: Full - Time Resident	Occupation/Grade:		Employer/School:		
SSN:			Place of Birth:		
Driver License No:	Driver License State:		Driver License Country:		
Attire:			Complexion:		
SMT:			Facial Hair:		
Victim Of: 2202 - Burglary - Forced Entry - Residence			Facial Shape:		
Victim Type: Individual	Circumstances:		Weapon Used:		
Injury:	Testify: No		Reporting Statement Obtained:		
Type of Injury:			Fire Dept Response:		
Hospital Taken To:	Medical Release Obtained:		Taken By:		
Attending Physician:	Hold Placed By:				

Victim Offender Relationships

Offender:	Relationship:
A1 - Frazier, Zachary L	Victim Was Stranger
A2 - Calhoun, Abdul K	Victim Was Stranger
A3 - Banks, Verndealeo Joy	Victim Was Stranger

Law Enforcement Officer Killed or Assaulted Information	Type: Assignment: Activity:	Justifiable Homicide Circumstances:
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Victim Notes:

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Appendix #12

Lakewood Police Department Arrest Report

Incident No 051920143.1

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Injury: None	Testify: Yes	Reporting Statement Obtained:
Type of Injury:		Fire Dept Response:
Hospital Taken To:	Medical Release Obtained:	Taken By:
Attending Physician:	Hold Placed By:	

Victim Offender Relationships

Offender:	Relationship:
A1 - Frazier, Zachary L	Victim Was Stranger
A2 - Calhoun, Abdul K	Victim Was Stranger
A3 - Banks, Verndeleao Joy	Victim Was Stranger

Law Enforcement Officer Killed or Assaulted Information	Type: A - Assaulted	Justifiable Homicide Circumstances:
Assignment:	2A - 1 Officer Vehicle (Alone)	
Activity:	06 - Handling Prisoners	

Victim Notes:

Property Item No. 1/1: 20044 - Office - Safe (Financial)

Other Common Item:	Photographed: Yes
Description:	Fingerprinted:
Quantity: 1	Contents Sampled:
Finding Location:	Owner: V1 - Issac, Isha T
Status: B - Both Stolen And Recovered (Also Use To Update Own Agency Previous Stolen)	Value: 150
Recovered Date: 07/11/05	Make/Brand:
Recovered Value: 150	Model:
Field Tested:	Serial No:
Field Test Results:	OAN:
Property Disposition: Released to Owner	Insurance Company:
Disposition Location:	Policy No:
Vehicle Information:	
License:	Locked:
License State:	Keys in Vehicle:
License Country:	Delinquent Payment:
Vehicle Year:	Victim Consent:
Make:	Driveable:
Model:	Estimated Damage:
Vehicle Style:	Damage:
Primary Vehicle Color:	Damaged Area:
Secondary Vehicle Color:	Tow Company:
VIN:	Tow Consent:
Special Features:	Hold Requested By:
Drug Information:	
Drug Type:	Drug Measure:
Drug Quantity:	Drug Measure Type:
Jewelry Information:	
Metal Color:	Total # of Stones:
Metal Type:	Inscription:

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Lakewood Police Department Arrest Report

Incident No. 051920143.1

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Other Common Item:	Photographed:
Description:	Fingerprinted:
Quantity: 1	Contents Sampled:
Finding Location:	Owner:
Status: U - Used In The Crime	Value:
Recovered Date:	Make/Brand:
Recovered Value:	Model:
Field Tested:	Serial No:
Field Test Results:	OAN:
Property Disposition: Towed	Insurance Company:
Disposition Location:	Policy No:
Vehicle Information:	
License: A33871C	Locked:
License State: Washington	Keys in Vehicle:
License Country: USA	Delinquent Payment:
Vehicle Year: 1998	Victim Consent:
Make: Ford	Driveable:
Model: Ranger	Estimated Damage:
Vehicle Style: 3-Door Truck	Damage:
Primary Vehicle Color: Red	Damaged Area:
Secondary Vehicle Color:	Tow Company: Lucky Tow
VIN: 1FTYR1DCXWPA90458	Tow Consent:
Special Features:	Hold Requested By:
Drug Information:	
Drug Type:	Drug Measure:
Drug Quantity:	Drug Measure Type:
Jewelry Information:	
Metal Color:	Total # of Stones:
Metal Type:	Inscription:
Stone Color:	Generally Worn By:
Firearm Information:	
Caliber:	Length:
Gauge:	Finish:
Action:	Grips:
Importer:	Stock:
Property Notes:	

Enter	Date	Time	WACIC	LESA	Initial	Release Info.	Date	Time	Release No.	Release Authority
Clear						Owner Notified			Operators Name	

Property Item No. 5/5: 1905 - Drugs - Equipment - Pipe

Other Common Item:	Photographed:
Description:	Fingerprinted:
Quantity: 1	Contents Sampled:
Finding Location:	Owner: A1 - Frazier, Zachary L
Status: 6 - Seized-Evidence Taken In Drug, Forgery/Counterfeiting Or Gambling Offenses	Value: 1
Recovered Date:	Make/Brand:
Recovered Value:	Model:
Field Tested:	Serial No:

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safe, I know you got a safe"! Isha said she was scared that the suspects were going to hurt her and her family so she pointed to where the safe was at and said, "It's over there". Frazier then quickly found the safe, grabbed it and ran out of the house. Isha said Calhoun was right on Frazier's heels as they ran out of the house.

Isha said she was able to grab her phone and dial 911 during the confrontation. Isha said she followed the suspects out of the house and chased after them as they ran through the apartment complex. Isha said she watched as Calhoun got in the drivers seat and Frazier got into the passenger seat of a red ford truck (WA / A33871C). Isha said it appeared that the truck was waiting for them but the window was fogged up and she couldn't tell if anyone else was in the truck.

Isha described the safe as a small grey in color briefcase style safe with a black handle. Isha said the safe had her key in the lock that was attached to a pink key chain. Isha said the briefcase contained approximately four hundred dollars in cash and personal documents.

I had Isha fill out a handwritten statement regarding the incident. I sent the handwritten statement to LESA Records so that the statement could be attached to this report. Please see Isha's handwritten statement for further information.

Kimbrough told me that he was asleep in the bedroom with his daughter (Asianna Kimbrough) when he heard a loud bang coming from the living room. Kimbrough said he got out of bed and started to go into the living room when he heard a man screaming, "Where's the safe". Kimbrough said when he got to the door way of his room he was met by Frazier. Frazier was wearing a blue bandana over his face and he was yelling, "Where's your safe, I know you got a safe in here. Give me the safe". Kimbrough said when he saw that Frazier was heading into the room he stooped him and said, "My little girl is in here". Kimbrough said before he knew it, Frazier punched him in the face, knocking him backwards. Kimbrough said he feared that his daughter was going to get hurt so he did not fight Frazier, instead he told him that the safe was in the living room.

Kimbrough said Frazier quickly ran into the living yelling, "Give me the safe". Kimbrough said he did not chase after Frazier because he wanted to get his daughter to safety. Kimbrough said he did hear Isha yelling at Frazier to get out of the house. Kimbrough said by the time he made it back out of the bedroom, Isha was chasing them through the apartment complex.

I had Kimbrough fill out a handwritten statement regarding the incident. I sent the handwritten statement to LESA Records so that the statement could be attached to this report. Please see Kimbrough's handwritten statement for further information.

Celia said she was asleep on the couch when she was awakened by two unknown men screaming. "Where's the safe, give me the safe". Celia said next thing she knew, Calhoun had jumped on top her, straddling her waist and legs with his lower body. Celia said Calhoun then grabbed her breasts and started to put his wait on to her. Celia said she quickly put her arms and hands up to block any further grabbing from Calhoun. Celia said she had no idea what was going on and she was scared that Calhoun was going to sexually assault her so she screamed as loud as she could. Celia said all of a sudden Calhoun got off of her and ran out of the house behind Frazier.

I had Celia fill out a handwritten statement regarding the incident. I sent the handwritten statement to LESA Records so that the statement could be attached to this report. Please see Celia's handwritten statement for further information.

After getting the information from the victims, I transported Isha and Kimbrough to Officer Martin's location for a show up. Upon arrival Officers at the scene walked Frazier, Calhoun, and Banks in front of my patrol car so they could clearly be seen. Both Isha and Kimbrough positively identified Frazier and Calhoun as the men who entered their house, assaulting Kimbrough and Celia, and then stealing the safe.

Isha said she did not see Banks in the house, however, she recognized her as a longtime friend of the family. Isha said Banks has stayed at her house several times over the past few months because she has been homeless and has recently had a baby. Isha said Banks knows that Isha keeps money in the safe and that the safe is usually kept in the house. Isha also confirmed that Frazier was Banks' boyfriend. Isha said Frazier has never been to their apartment. Isha did not know who Calhoun was.

Once all the suspects were positively identified, they were placed under arrest for burglary in the first degree and robbery in the second degree. I then contacted Officer Martin for the details on the stop.

Officer Martin showed me the truck that the suspects were in. Officer Martin confirmed that Calhoun was driving, Banks was sitting in the middle, and Frazier was in the passenger seat. Officer Martin also told me that when he stopped the truck, Frazier opened the door and threw a grey object under the truck. Officer Martin said the object matched the description of the safe that was stolen from Isha.

I located the truck and saw that there was a safe under the passenger side of the truck. I also saw blue bandanas on the ground near the passenger side of the truck. Officer Martin confirmed that the bandanas fell out when Frazier exited truck.

Appendix "12"

CERTIFICATE OF SERVICE BY MAIL

FILED
COURT OF APPEALS
DIVISION II

07 FEB 27 AM 11:28

This is to certify and state under the penalty of perjury under the laws of the State of Washington that I have mailed a true and correct copy of the following documents(s):

DEPUTY

An original copy of the appellant's statement of additional grounds
for review under RAP Rule 10.10.

By depositing in the United States mail, marked *Legal Mail*, postage prepaid, on
this 23rd day of February, 2007 to the following: COURT OF APPEALS

DIVISION II 950 Broadway, 300, Tacoma, Washington 98402

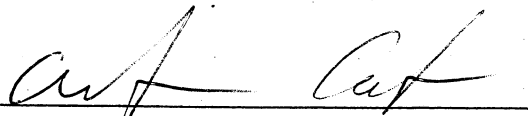
David Ponzoha, Clerk/Administrator, Rita Joan Griffith Attorney at Law

1305 NE 45th St Ste 205 Seattle, WA 98105-4523, Jesse Williams Pierce

County Prosecuting Attorney 930 Tacoma, WA 98402-2163, Iise Ellner

Attorney at Law PO Box 2711 Vashon, WA 98070-2711

Respectfully Submitted,


Signature

ABDULKHALIF CALHOUN

Printed/Typed Name

D.O.C.# 785278 Unit # Cell # B 221

CERTIFICATE OF SERVICE BY MAIL

07 FEB 27 AM 11:28

STATE OF WASHINGTON

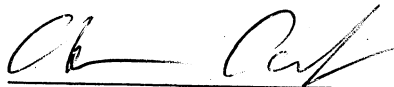
This is to certify and state under the penalty of perjury under the laws of the State of Washington that I have mailed a true and correct copy of the following document(s):

A copy of the appellant's statement of additional grounds for review
under RAP Rule 10.10

By depositing in the United States mail, marked *Legal Mail*, postage prepaid, on
this 23rd day of February, 2007 to the following: Jesse Williams

Pierce County Prosecuting Attorney 930 Tacoma Ave S Rm 109 Tacoma, WA
98534

Respectfully Submitted,



Signature

ABDULKHALIF CALHOUN

Printed/Typed Name

D.O.C.# 725272 Unit # Cell # B 09L

COURT OF APPEALS
DIVISION II

07 MAR 23 PM 12:25

STATE OF WASHINGTON

BY _____
DEPUTY

COURT OF APPEALS

Division II COURT OF WASHINGTON

IN AND FOR Pierce COUNTY

ABDUL K. CALHOUN

Petitioner

V.

State of Washington

Respondent

No. 34941-8-II

DECLARATION OF SERVICE

BY MAIL

I, ABDUL K. CALHOUN, the Petitioner in the
above-entitled cause, do hereby declare that I have served the following documents:

1). Petition for Statement of Additional Authorities in
Pursuance of RAP Rule 10.8

Upon: Pierce County Prosecutors Office

Mr. Jesse Williams, Prosecutor

Name

930 Tacoma Ave South Rm 946

Address

Tacoma, Washington 98402

City

State

Zip

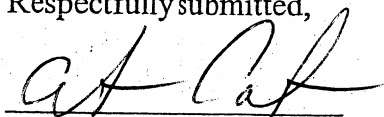
I deposited with the Unit Officer's Station, by processing as Legal Mail, with first-class
postage affixed thereto, at the Washington Correctional Center Post

Office Box 900 Shelton, Washington 98584

On this 22nd day of March, 2007.

I certify under penalty of perjury under the laws of the state of Washington that the
foregoing is true and correct.

Respectfully submitted,



(Signature)

FILED
COURT OF APPEALS
DIVISION II
07 MAR 23 PM 12:25
STATE OF WASHINGTON
BY _____
DEPUTY

COURT OF APPEALS
Division II COURT OF WASHINGTON
IN AND FOR Pierce COUNTY

<u>ABDUL K. CALHOUN</u>)	
Petitioner)	No. <u>34941-8-II</u>
V.)	DECLARATION OF SERVICE
)	BY MAIL
<u>State of Washington</u>)	
Respondent)	

I, ABDUL K. CALHOUN, the Petitioner in the above-entitled cause, do hereby declare that I have served the following documents:

1). Petition for Statement of Additional Authorities in Pursuance of RAP Rule 10.8

Upon:
Mr. David Ponzoha, Clerk

Name
950 Broadway 300

Address
Tacoma, Washington 98402

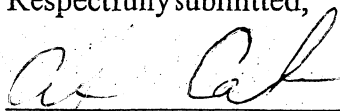
City State Zip

I deposited with the Unit Officer's Station, by processing as Legal Mail, with first-class postage affixed thereto, at the Washington Correctional Center Post Office Box 900 Shelton, Washington 98584

On this 22nd day of March, 2007.

I certify under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

Respectfully submitted,



(Signature)

COURT OF APPEALS
DIVISION II
07 MAR 28 PM 10:25
STATE OF WASHINGTON
BY SW

No. 34941-8-II

COURT OF APPEALS
DIVISION II
STATE OF WASHINGTON

STATE OF WASHINGTON,
Respondent,

PETITION FOR STATEMENT OF
ADDITIONAL AUTHORITIES IN
Pursuance of RAP Rule 10.8

vs.

ABDUL K. CALHOUN,
Petitioner/Sui Juris.

To: Appellate Court Clerk/Administrator; David Ponzoha,
And to: Pierce County Prosecuting Attorney; Jesse Williams

Identity

COMES NOW AND PRESENTS FORTHWITH to The Honorable Appellate
Court, Petitioner, ABDUL K. CALHOUN Sui Juris, respectfully
submits this PETITION FOR STATEMENT OF ADDITIONAL AUTHORITY
Pursuant to RAP Rule 10.8

Analysis

Hereby the Petitioner compose and presents this document for
the purpose of requesting that the Honorable Appellate Court
consider incorporating the additional authorities set herein
within the Petitioner's Statement of Additional Grounds that
was presented under RAP Rule 10.10 for substantial support.

1
2 Rule

3 RAP Rule 10.8 Provides that a party may file a Statement
4 of Additional Authorities, without argument, the statement
5 must be served and filed prior to the filing to the
6 decision on the merits or, if there is a motion for recon-
7 sideration, prior to the filing of the decision on the
8 motion.

9
10 Additional Authorities

11
12 Speedy Trial Issues Presented:

13
14 "The trial court is ultimately responsible for ensuring
15 compliance with CrR 3.3, but as between the state and a
16 criminal defendant to trial within the speedy trial period
17 Jenkins, 76 Wash App. at 382-83; State v. Lemley, 64 Wash.
18 App. 724, 729, 828 P.2d 587, Reviewed denied, 119 Wash. 2d
19 1025, 838 P.2d 690 (1992) State v. Wilks, 932 P.2d 687, 85
20 Wash. App. 303 (Wash.App.Div.3 03/11/1997)."

21
22 "The trial court has a duty to make an adequate record of
23 the reasons for non-compliance with speedy trial time
24 periods." State v. Williams, 87 Wash. 2d 916, 557 P.2d 1311
25 (1976).

1
2 Additional Authorities Cont'd....

3 "If a defendant is not brought to trial before the running
4 of the time for trial, as extended by excluded periods, the
5 consequences should be absolute discharge. Such discharge
6 should forever bar prosecution for the offense charged and
7 for any other offense required to be joined with that
8 offense." Washington v. Erickson, 22 Wash. App. 38,587 P.2d
9 613 (Wa.App. 12/01/1978).

10
11 "A defendant not released from jail pending trial shall be
12 brought to trial not later than 60 days after the date of
13 arraignment. A criminal charge not brought to trial within
14 the time period provided by this rule shall be dismissed
15 with prejudice." State v. Duffy, 936 P.2d 444, 86 Wash.App.
16 334 (Wash.App.Div.3 05/13/1997).

17
18 "When a criminal charge is not brought to trial within the
19 speedy trial period, CrR 3.3(i) requires that the charge
20 must be dismissed with prejudice. A defendant not released
21 from jail pending trial must be brought to trial no later
22 than 60 days after arraignment. CrR 3.3(c)(i)." State v.
23 Pers-Sanches, No.19164-4-II (Wash.Div.2 12/30/1996).

24 Dated this 20th day of March, 2007

25 Mason County, Washington

26 Respectfully Submitted by,

27 Mr. AbdulKhalif Calhoun
28